

**Montgomery County Government  
Contracting Analysis:  
Wages, Staffing, & Service Contract Trends**

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# Montgomery County Government Contracting Analysis: Wages, Staffing, & Service Contract Trends

OLO Report 2018-7

EXECUTIVE SUMMARY

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This Office of Legislative Oversight (OLO) report responds to Council's request to better understand dollars awarded for County Government service contracts, the size of the service contractor workforce, and contractor wages. OLO analyzed FY12-FY17 budget data, reviewed applicable County laws and contract documents, and interviewed department staff to develop the information in the report. Service contracts accounted for 33% of total operating contract dollars awarded in FY17 (\$394.7M out of \$1,193.0M) and excluded pass-through grants, direct purchase orders, knowledge transfer contracts, or community grants. OLO found that the County does not collect and does not require vendors to report data on contractor wages or that could be used to count the number of contractors on service contracts.

**Service Contracts.** In a service contract, a contractor provides labor, time, or effort (as opposed to goods). The County categorizes service contracts as either *professional* (e.g., hiring consultants, engineers, or IT services) or *non-professional* (e.g., buying services or maintenance agreements). Department staff use service contracts to manage budget constraints, supplement staff, gather specialized expertise, meet legal requirements, and promote program flexibility. The County's preferred contract type to award service contracts is a fixed-price contract that pays a contractor a set price for the services and where the price is not affected by variable factors (e.g., labor rates or materials costs).

**FY17 Contracting Trends.** Executive Branch operating departments that provide essential services to residents (e.g., DEP, MCFRS) spend significantly more for construction, goods, and services contracts in general than County administrative departments that provides internal County government services (e.g., Finance, DGS) and specifically also contract for a higher percentage of services. Professional services comprised the largest share of service contracts (30% or \$118.5M out of the \$394.7M) – with vendors providing Transfer Station and Resource Recovery Facility operations, health care services, automatic traffic enforcement, and recycling among the top contractors from FY12 to FY17.

Contracting for services varies significantly from department to department. Twelve departments out of 37 (plus Non-Departmental Accounts) accounted for 96% (\$378.9M) of all contractual services in FY17 and while the Department of Environmental Protection spent 67.3% of its operating budget on services contracts, the Office of Human Resources only spent 2.0%. Service contract awards rose faster than department budgets for 10 of the top 13 departments in FY12 to FY17.

**FY17 Departments with Highest Dollars Awarded for Service Contracts (in millions)**

| County Department           | Total Expenditures |
|-----------------------------|--------------------|
| Health & Human Services     | \$110.4            |
| Environmental Protection    | \$80.9             |
| General Services            | \$40.1             |
| Transportation              | \$38.0             |
| Non-Departmental Accounts   | \$26.0             |
| Technology Services         | \$24.2             |
| Police                      | \$16.7             |
| Fire & Rescue Service       | \$13.4             |
| Housing & Community Affairs | \$5.6              |
| Human Resources             | \$5.1              |
| Correction & Rehabilitation | \$4.0              |
| Liquor Control              | \$4.0              |
| All Other Departments       | \$15.8             |
| <b>TOTAL</b>                | <b>\$394.7</b>     |

**Contractor Wages and Wage Adjustments.** Certain County service contracts must follow the County's Wage Requirements Law (WRL) requiring vendors to pay a minimum hourly wage rate and submit quarterly payroll data, with some vendors exempt from the law and the data reporting requirements. Beyond this law, County departments do not define or collect data on contractor wages. In FY16, 831 service contracts were subject to the WRL; 44% (362) of service contracts operated under the WRL and 56% (469) vendors claimed a WRL exception.

Contractor wages can increase annually due to adjustments to the WRL or based on contract provisions allowing for price adjustments. Vendors, however, are not required to report data that would allow the County to track wage adjustments over the life of a contract.

**Counting Staff in County Service Contracts.** Unless a contract solicitation defines a staffing count or the vendor provides a count in a proposal, it is difficult to count the number of employees working under County service contracts. While Office of Procurement staff estimate (based on a sample of contracts) that the Office reviews between 6,000 and 6,500 contract employee records each quarter under the WRL, WRL data does not include all County service contractors because 56% of vendors claim an exemption to the WRL and do not report wage data.

**Counting Contractor Access Identification Cards.** To count County Government contractors, OLO requested Access ID card data from the Montgomery County Police Department's (MCPD) Security Services Division, which manages County Government ID cards. Every County employee, contractor, intern, and volunteer who requires access to a County facility receives a County ID card. OLO requested ID card data from MCPD on:

- The number of contractors working on-site in County facilities;
- The departments with the highest number of contractors on-site; and
- The average length of time a contractor is actively employed with the County Government.

Due to persistent issues with the management and oversight of the Access ID Card Program identified by MCPD and reported to OLO, MCPD could not provide accurate data from the system.

OLO found that MCPD Security Services Division does not have established procedures to deactivate ID cards when contractors leave County service and the County does not have a centralized system to monitor active contractors. As a result, there are examples of contractors not returning their ID cards when leaving County service resulting in security system accountability issues in determining contractor status. MCPD staff reported that the ID card system included over 4,800 active contractor ID cards in January 2018. After scrubbing the data, MCPD reduced the count to 1,543 active cards by March.

OLO's review of the 1,543 ID card records revealed several additional data quality issues, including active ID cards for contractors no longer working for the County, active contractors not reported in the data, contractors-turned-employees still categorized as contractors, and issues with the card dates. In addition, OLO found routine auditing of the ID card security system and established checks and balances are lacking. OLO did not significantly investigate staffing levels, technology needs, or day-to-day processes. Process improvements are needed to address the management of the security system, as correct levels of staffing and appropriate technology should be ascertained.

### **OLO Discussion Question and Recommendation**

**Discussion Question:** What opportunities exist to increase available data to provide a more robust contracting trend analysis, including contractor staffing counts and wages? What data points would best meet the Council's needs? How could this data be collected? OLO suggests that the Council discuss with Executive Branch staff the availability and feasibility of data collection options related to County contractors.

**Recommendation:** Request that the County Executive review the County's Access ID Card Program and ensure that MCPD's Security Services Division implements sound data management and routine auditing processes to monitor County Government identification cards and facility access.

For a complete copy of OLO-Report 2018-7, go to:  
<http://www.montgomerycountymd.gov/OLO/Reports/CurrentOLOReports.html>

## **OLO Report 2018-7**

# **Montgomery County Government Contracting Analysis: Wages, Staffing, & Service Contract Trends**

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## Introduction

Chapter 11B of the Montgomery County Code defines a contract as “any agreement to which the County is a party for the procurement or disposal of goods, services, or construction, including any contract modification.”<sup>1</sup> After focusing on operating funds and removing direct purchase orders, knowledge transfer contracts, and community and pass-through grants, service contracts accounted for 33% of total contract dollars awarded in FY17 (\$394.7M out of \$1,193.0B). This Office of Legislative Oversight (OLO) report reviews the structure and format of contractor pay and staffing requirements in County service contracts and examines trends in County Government spending for contractual services. In particular, this report:

- Provides an overview of the County Government procurement process, including reasons why departments contract for professional and non-professional services;
- Reviews the format and structure of contract language for contractor wages and staffing requirements; and
- Presents County-wide spending trends on service contracts including individual summaries for 13 Executive Branch departments that awarded the most for service contracts in FY17.

Of note, OLO found that it was unable to directly count the number of contractors<sup>2</sup> hired via County Government contracts because the structure of certain contracts (e.g., fixed-price contracts) does not require a specific number of contractors and because of a lack of reporting requirements for contract services. As such, because the Montgomery County Police Department (MCPD) issues every County employee, contractor, intern, and volunteer who requires access to a County facility an Access Identification (ID) card, OLO sought to count active County Government contractors using MCPD ID card data. During this data collection effort, OLO identified several lapses in current security processes. While this information falls outside the initial scope of the OLO project, OLO felt it important to briefly address the data management and processes used to monitor contract employee ID cards and facility access.

OLO staff members Stephanie Bryant and Blaise DeFazio conducted this study, with assistance from Leslie Rubin and Kelli Robinson. OLO gathered information through document reviews, budget and data analysis, and interviews with Executive Branch staff. OLO received a high level of cooperation from everyone involved in this study and appreciates the information and insights shared by all who participated:

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<sup>1</sup> Montgomery County Code §11B-1.

<sup>2</sup> For the purpose of this report, the term *contractors* refer to contract employees, whereas companies that contract with the County are referred to as *vendors*.

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## Chapter 1. Overview of Contracting Laws, Regulations, and Process in County Government

Chapter 11B of the Montgomery County Code defines a contract as “any agreement to which the County is a party for the procurement or disposal of goods, services, or construction, including any contract modification.”<sup>3</sup> In FY17, the Montgomery County Office of Procurement awarded \$1,078.2 billion in contracts for goods, services, and construction.<sup>4</sup> This Chapter provides an overview of the procurement process, including identified reasons for contracting for services. Some key findings include:

- Montgomery County Government operates a centralized procurement system for the purchase of goods, services, or construction; requiring multiple stages of review and adherence to compliance programs. Departments that enter into contracts (referred to as “Using Departments”) take the lead in developing contracts and the Office of Procurement executes the contracts.
- In FY17, the Office of Procurement awarded \$1,078.2 billion in contracts for goods, services, or construction; of which professional and non-professional services contracts comprised 64% of total contract dollars awarded.
- The County’s preferred contract type is a fixed-price contract that pays a vendor a set price for goods, services, or construction and where the price is not affected by any variable factor (e.g., labor rates or materials costs). The Office of Procurement does not collect data on total dollars awarded by contract type (e.g. fixed-price, cost reimbursement, etc.).
- Executive Branch staff report that departments contract for services (professional and non-professional services) to manage budget constraints, supplement staff capacity, gather specialized expertise, meet legal requirements, and promote program flexibility.

This chapter is organized as follows:

- **Section A**, Overview of County Laws and Regulations Governing the Procurement Process;
- **Section B**, Participant Roles in the County Government’s Procurement Process; and
- **Section C**, Executive Branch Staff-Identified Reasons for Contracting for Services.

### A. Overview of County Laws and Regulations Governing the Procurement Process

Section 313 and 314 of the County Charter requires the County Council to establish a centralized system for purchasing and contracting for all goods and services used by the County and requires purchases or contracts to be made through competitive procurement, when applicable. Authority to administer the centralized purchasing system lies with the County Executive and Chief Administrative Officer.<sup>5</sup> The following section summarizes County Code provisions governing the procurement process.

<sup>3</sup> Montgomery County Code §11B-1.

<sup>4</sup> The figures represent encumbered amounts. Actual amounts spent can be found on SpendingMontgomery ([spending.data.montgomery.gov](http://spending.data.montgomery.gov)). Montgomery County Office of Procurement, Record of Procurements – FY17, available at <https://www.montgomerycountymd.gov/PRO/Resources/Files/Reports/FY17RecPRO.pdf>, accessed on Oct. 17, 2017. For a detailed examination of the County’s procurement process, refer to OLO Report 2017-3, Mapping the Procurement Process, which provides workflow maps on the general contracting process and for different types of contracts. See <http://www.montgomerycountymd.gov/olo/>

<sup>5</sup> Montgomery County Charter §313-§314.

## 1. Montgomery County Code Chapter 11B

Chapter 11B of the Montgomery County Code establishes a system for purchasing goods, services, or construction services and authorizes the County Executive to adopt regulations to implement the law.<sup>6</sup> Requirements mandated by these laws and regulations are included in each contract in the General Conditions of Contract (See Appendix A).<sup>7</sup> The General Conditions of Contract outline terms and conditions between the County and the vendor (e.g., applicable laws, duties of the contract administrator, and ethics requirements).<sup>8</sup>

**Application.** With some exceptions, the procurement law applies to every County Government purchase of goods, services, or construction.<sup>9</sup> The Code defines goods, services, and construction as the following:

- **Goods** – Contracts for the purchase of supplies, equipment, materials, and all tangible property, excluding real property.
- **Services** – The furnishing of labor, time, or effort by a contract. This does not involve delivery of a specific end-product other than reports, which are incidental to the required performance. Services may either be categorized as professional (e.g., hiring of consultants, engineers, or IT services); and non-professional services (e.g., printing services or maintenance agreements).
- **Construction** – Contracts related to the process of building, altering, repairing, improving, or demolishing any structure or building, or other improvements of any kind to real property. This does not include routine operation, repair, or maintenance of existing structures, buildings, or real property.<sup>10</sup>

The Office of Procurement is required to publish an annual Record of Procurements awarded each fiscal year.<sup>11</sup> As part of this record, the Office tracks the number of contract actions (i.e., entering into, amending, or extending a contract) and dollars awarded by contract category (i.e., goods, professional services, non-professional services, and construction). The next table summarizes the number and dollar amount of contracts awarded in FY17.

**Table 1. FY17 Total Contract Actions and Dollars Awarded by Contract Category (\$ in millions)<sup>12</sup>**

| Contract Category       | Actions      | Dollars Awarded  |
|-------------------------|--------------|------------------|
| <b>Services</b>         | 6,214        | \$689.0          |
| <i>Professional</i>     | 3,682        | \$424.3          |
| <i>Non-Professional</i> | 2,532        | \$264.7          |
| <b>Goods</b>            | 1,094        | \$76.9           |
| <b>Construction</b>     | 256          | \$312.3          |
| <b>Total</b>            | <b>7,564</b> | <b>\$1,078.2</b> |

<sup>6</sup> See Code of Montgomery County Regulations §11B.00.01 [hereinafter COMCOR].

<sup>7</sup> The Office of Procurement identifies contract-related documents alphanumerically. The General Conditions of Contract is document PMMD-45.

<sup>8</sup> PMMD-45 General Conditions of Contract Between County and Contractor, available at

<https://www.montgomerycountymd.gov/pro/help.html>

<sup>9</sup> §11B-3.

<sup>10</sup> §11B-1.

<sup>11</sup> §11B-32.

<sup>12</sup> Montgomery County Office of Procurement, Record of Procurements, Fiscal Year 2017, available at

<https://www.montgomerycountymd.gov/PRO/Resources/Files/Reports/FY17RecPRO.pdf>.

**Exemptions from Procurement Laws and Regulations.** As mentioned above, the County’s procurement laws and regulations do not apply to every purchase. The Code exempts the following purchases from the procurement laws and regulations:

- Certain procurements made for the employees’ retirement system;
- Obtaining the services of special legal counsel as authorized by the Charter;
- Hiring of an independent auditor by the County Council;
- Hiring of an impasse neutral, mediator, or fact finder under a County collective bargaining law;
- Obtaining copyrighted material and information for use in a public library;
- Obtaining electricity, natural gas, and compressed natural gas;
- Purchasing goods or services for a County-sponsored recreational activity if the purchase is made on behalf of a group of persons who contribute funds to participate in the activity;
- Obtaining entertainment services, including but not limited to contracts for musical performers;
- Obtaining the services of experts, consultants, and investigators by the County Attorney whether in anticipation of litigation or in preparation for trial;
- Obtaining advertising services from media sources; and
- Any other procurement exempted by another law.<sup>13</sup>

**Methods for Purchasing Goods, Services or Construction.** County procurement laws and regulations establish methods for making County purchases, referred to in law as “source selection” methods. Regulations dictate when a specific source selection method must be used, the procedures for each method, and how to evaluate potential bidders or offerors.<sup>14</sup> Table 2, on the following page, summarizes source selection methods available to Using Departments. With the exception of three purchase types, all applicable purchases under Chapter 11B require a written contract document.<sup>15</sup> The exceptions are:

- Direct purchases (purchases for \$10,000 or less);
- Reimbursable purchases by Using Departments; and
- Emergency procurements.

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<sup>13</sup> §11B-4.

<sup>14</sup> §11B-9; COMCOR §11B.00.01.04.

<sup>15</sup> COMCOR §11B.00.01.03.3.

Table 2. Overview of County Source Selection Methods<sup>16</sup>

| Source Selection Method   | Dollar Threshold Requirements    | Description   |
|---|----------------------------------|---|
| <b>Petty Cash</b>   | \$100 or less                    | Petty cash is used for informal purchases of goods or services by employees and authorized by the Using Department Head. The Department of Finance has a policy regarding petty cash.   |
| <b>Direct Purchase</b>  | \$10,000 or less                 | A direct purchase is an informal procurement of goods, services, or construction under the direct authority of the Using Department Head.   |
| <b>Mini-Contract</b>  | Above \$10,000 & Below \$100,000 | A mini-contract is used to obtain professional services (and non-professional services under special circumstances) via an informal solicitation process. A contract award is based on price and other pertinent factors.   |
| <b>Small Purchase</b>   | Above \$10,000 & Below \$100,000 | A small purchase is an informal solicitation for goods, services, or construction. The award is based on price, responsiveness, and responsibility.   |
| <b>Competitive Sealed Bidding – Invitation for Bid (IFB)</b>      | \$100,000 or more                | An IFB is a formal solicitation requesting prices for goods, non-professional services, or construction through public notice. This method is used when cost is the determining award factor. As such, the contract award must be made to the lowest responsive bid from a responsible offeror.   |
| <b>Competitive Sealed Proposals – Request for Proposals (RFP)</b> | \$100,000 or more                | A RFP is used primarily for the purchase of professional services when other considerations in addition to cost are valid evaluation criteria (e.g., technical competence, past performance). The RFP process balances quality and price to obtain the best value for the County.   |
| <b>Abbreviated Formal Solicitation</b>                            | \$200,000 or less                | A method for obtaining competitive sealed bids or proposals by using an abbreviated formal solicitation process, when determined by the Director of the Office of Procurement to be in the best interest of the County.   |
| <b>Bridge Contract</b>  | No Specific Limit                | A bridge contract is a procurement for goods, services, or construction through an existing competitive contract held by another public entity. The contract must be in the best interest of the County. The contract must provide the County with materially the same goods, services, or construction at the same prices being paid by the other public entity. |
| <b>Open Solicitation</b>  | No Specific Limit                | An open solicitation is used when the County desires to award a contract to all offerors who meet pre-established, objective qualifications (e.g., obtaining instructors for teaching classes to the public).   |

<sup>16</sup> *Ibid.* See also Montgomery County Office of Procurement, *Procurement Guide*, April 2010.

Table 2. Overview of County Source Selection Methods, Cont'd.

| Source Selection Method          | Dollar Threshold Requirements | Description  |
|----------------------------------|-------------------------------|--|
| <b>Public Entity Procurement</b> | No Specific Limit             | A public entity procurement is used when it is in the best interest of the County to obtain goods, services, or construction from those available within the public sector. This procurement does not require public notice or non-competitive justification.  |
| <b>Cooperative Procurement</b>   | No Specific Limit             | The County may enter into a cooperative solicitation for any goods, services, or construction with another public entity. These types of procurements combine requirements from two or more public entities to obtain the benefits of volume purchases, reduction in administrative expenses, or some other public purpose.  |
| <b>Non-Competitive Contract</b>  | No Specific Limit             | <p>The County may award a contract without prior public notice or competition if the CAO determines that the contract award serves a public purpose and:</p> <ol style="list-style-type: none"> <li>1. Only one source exists that can meet County needs for required goods, services, or construction (“sole source”);</li> <li>2. The goods, services, or construction to be acquired are for potential or pending litigation, condemnation, or collective bargaining; or</li> <li>3. When a grant (County, State, or Federal) or County grant resolution (“community grant”) specifically identifies a vendor.</li> </ol> |
| <b>Emergency Procurement</b>     | No Specific Limit             | An emergency procurement is an informal procurement of goods, services, or construction required as a result of an emergency (i.e., any dangerous condition or unforeseen curtailment of an essential service or supply that poses an immediate danger to health, life, or property).  |

Data on source selection methods are included in the published annual Record of Procurements. As shown in Table 3 on the following page, of the \$1,078.2 billion in contract dollars awarded in FY17, 43.5% were awarded utilizing Request for Proposals (RFP).

**Table 3. FY17 Contract Dollars Awarded by Source Selection Method (\$ in millions)<sup>17</sup>**

| Source Selection Method    | Dollars Awarded  | % of Total    |
|----------------------------|------------------|---------------|
| Request for Proposal (RFP) | \$468.9          | 43.5%         |
| Invitation for Bid (IFB)   | \$198.2          | 18.4%         |
| Cooperatives               | \$157.6          | 14.6%         |
| Grants                     | \$85.6           | 7.9%          |
| Bridge                     | \$66.6           | 6.2%          |
| Public Entity              | \$47.8           | 4.4%          |
| Open Solicitation          | \$38.8           | 3.6%          |
| Sole Source                | \$11.3           | 1.1%          |
| Mini Contract              | \$1.6            | 0.1%          |
| Abbreviated RFP            | \$1.0            | 0.1%          |
| Small Purchase             | \$0.6            | 0.1%          |
| <b>TOTAL</b>               | <b>\$1,078.2</b> | <b>100.0%</b> |

Further, as shown below, the predominant source selection method varies based on whether the County is purchasing goods, services, or construction.

**Table 4. FY17 Top Source Selection Methods by Contract Category (\$ in millions)<sup>18</sup>**

| Contract Category                | Source Selection Method | Total Dollars Awarded |
|----------------------------------|-------------------------|-----------------------|
| <b>Professional Services</b>     | Request for Proposal    | \$148.9               |
|                                  | Cooperative Procurement | \$146.3               |
|                                  | Grants                  | \$76.3                |
| <b>Non-Professional Services</b> | Request for Proposal    | \$84.5                |
|                                  | Invitation for Bid      | \$66.5                |
|                                  | Public Entity           | \$37.5                |
| <b>Goods</b>                     | Invitation for Bid      | \$27.8                |
|                                  | Request for Proposal    | \$22.9                |
|                                  | Bridge Procurement      | \$16.9                |
| <b>Construction</b>              | Request for Proposal    | \$213.6               |
|                                  | Invitation for Bid      | \$98.7                |

**Contract Types Used to Purchase Goods, Services, or Construction.** In addition to selection method, Procurement staff work with Using Departments to determine the type of contract that will best serve the interest of the County and the vendor. The County generally uses four types of contracts, with the possibility of combining types in a single contract.<sup>19</sup>

<sup>17</sup> Montgomery County Office of Procurement, Record of Procurements, Fiscal Year 2017. Dollars awarded for emergency actions are subsets of the total award dollars shown in the table and are not included. Emergency actions in FY17 totaled for Other than Professional Services, \$1.03M, Professional Services \$0.22M; Goods, \$0.36M; and Construction, \$79.0M.

<sup>18</sup> Montgomery County Office of Procurement data received on 5.9.2018.

<sup>19</sup> §11B.00.01.04; Montgomery County Office of Procurement, *Procurement Guide*.



- **Fixed-Price.** A fixed-price contract is the County’s preferred contract type.<sup>20</sup> A fixed-price contract defines the goods, services, or construction to be delivered in exchange for a fixed, defined price. Costs may also be subject to defined adjustments (e.g., annual price increases, incentive). Under a fixed-price contract, the vendor bears the full responsibility for profit or loss.

#### Fixed-Price Contracts

Fixed-price contracts are generally favored by policymakers because the vendor, not the government, assumes the risk of cost increases. As mentioned above, a fixed-price contract specifies an exact dollar amount that is not subject to any variables (such as labor rates, hours worked, or material costs). The government’s liability is limited to the contract price. If labor or materials costs increase during performance of the contract, the vendor must absorb the costs, even if doing so means choosing between taking a loss or breaching the contract. The government can rely on the vendor to finance performance under the contract because generally the government pays for only completed, delivered work. Further, fixed-price contracts are simpler to administer because generally there is no need to determine whether costs are allowable under the contract; rather the government can pay the agreed-upon price upon acceptance of the supplies or services.

Source: Kate M. Manuel, *Contract Types: Legal Overview*, Congressional Research Service, December 29, 2014, available at <https://fas.org/sgp/crs/misc/R41168.pdf>.

- **Cost Reimbursement.** A cost reimbursement contract provides for reimbursement of a vendor’s costs associated with performance of specified contract requirements. Costs may include rates associated with personnel and overhead.
- **Requirements.** A requirements contract is an indefinite quantity contract for goods, services, or construction to be furnished at specific times or as needed. The vendor agrees to provide goods, services, or construction at pre-established prices as the County’s need arises but is not guaranteed that the County will purchase anything under the agreement.
- **Definite Quantity.** A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of goods, services, or construction either at specific times or when ordered. Quantities are limited to the quantity stated in the contract, unless the contract contains an option to increase the quantity.

Executive Branch staff report that requirements contracts and definite quantity contracts are considered fixed-price because they specify a fixed-price unit or service. Procurement does not currently track data on dollars awarded by contract type.

## 2. Additional Requirements

Certain County contracts must comply with additional requirements, established in the procurement laws and regulations. Several of these requirements represent policy choices that are implemented through the County’s procurement laws and may be enforced by Procurement’s Division of Business Relations and Compliance.

**Wage Requirements Law.** The Wage Requirements Law (WRL) requires covered vendors (service contractors and subcontractors) to pay a minimum hourly wage rate to employees who perform direct, measurable work on qualified County service contracts. See Chapter 2 for an in-depth discussion of the WRL.

<sup>20</sup> Montgomery County Office of Procurement, *Procurement Guide*.

**Local Small Business Reserve Program (LSBRP).** Procurement regulations require County departments and offices to award 20 percent of their procurements for goods, services, or construction to certified local, small businesses. In FY17, the County awarded contracts for \$93.4 million with local, small businesses.<sup>21</sup> To be eligible for the program, a business must satisfy the definitions in County law of a local and small business. The vendor must also be registered to do business in Maryland and be in good standing with the Maryland State Department of Assessments and Taxation.

**Local Business Subcontracting Program.** Effective January 1, 2017, procurement laws and regulations require prime vendors, who have contracts with the County of more than \$10 million to award 10% of the contract as subcontracts to local businesses (not local, small).<sup>22</sup>

**Health Insurance Preference.** Effective July 1, 2016, procurement laws and regulations establish a preference in service contracts for small businesses (those with less than 50 employees) that provide health insurance to their employees. The County's Department of Health and Human Services certifies small businesses, while the Office of Procurement give the small business a price preference during RFP evaluation.<sup>23</sup>

**Minority, Female, and Disabled-Owned (MFD) Business Program.** For goods, services, or construction contracts greater than \$50,000, County procurement laws require County departments and offices to purchase a percentage of its goods, services, or construction from minority, female, or disabled-owned businesses. The MFD law and regulations establish procedures for implementing the MFD program.<sup>24</sup> In FY17 the County awarded \$217.8 million with MFD businesses.<sup>25</sup>

**Cost and Price Analysis.** The Director of Procurement must determine that the price paid under a contract is "fair and reasonable." Before a Using Department recommends awarding a contract to a vendor, the Using Department must conduct a price analysis to determine whether the proposed price is fair and reasonable. Vendors also submit cost and/or price data for analysis prior to contract approval for competitively-negotiated contracts over \$100,000; non-competitively-negotiated contracts over \$50,000; any contract modification for which a price adjustment is not allowed under the contract and is expected to exceed \$50,000; and any other contract or modification as required by the Chief Administrative Officer or Director of the Office of Procurement.<sup>26</sup>

**County Attorney's Office Review.** Procurement regulations require Using Departments to submit most contracts to the County Attorney's Office for review and approval of form and legality prior to executing the contract.<sup>27</sup> The regulation exempts direct purchases, petty case purchases, emergency purchases, credit and debit card purchases, small purchases, and delivery orders against existing contracts.

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<sup>21</sup> Montgomery County Office of Procurement, FY2017 Local Small Business Reserve Program Annual Report, available at <http://cmsinternet.mcgov.org/PRO/Resources/Files/FY17%20LSBRP%20Annual%20Report.pdf>.

<sup>22</sup> §11B-78; *Ibid*.

<sup>23</sup> §11B-77; Montgomery County Government Professional Development Programs, Contract Compliance Programs, training course offered by the Office of Procurement, October 27, 2017.

<sup>24</sup> §11B-57 – 64; COMCOR §11B.00.01.07.

<sup>25</sup> Montgomery County Office of Procurement, FY2017 Minority, Female and Disabled-Owned (MFD) Program Annual Report, available at [https://www.montgomerycountymd.gov/PRO/Resources/Files/OBRC/MFDReport\\_FY17.pdf](https://www.montgomerycountymd.gov/PRO/Resources/Files/OBRC/MFDReport_FY17.pdf).

<sup>26</sup> COMCOR §11B.00.01.10.10.1; COMCOR §11B.00.01.10.10.1.1.

<sup>27</sup> COMCOR §11B.00.01.03.3.3.1.

## B. Participant Roles in the County Government’s Procurement Process

Multiple County departments share responsibility for implementing the County’s procurement process, which involves a multistage process from contract development to solicitation and award to execution and monitoring.<sup>28</sup> This section outlines the roles and responsibilities of the following process participants:

- Office of Procurement;
- Using Departments;
- Department of Finance;
- Office of Management and Budget;
- County Attorney’s Office; and
- The County Executive and County Council.

**Office of Procurement.** The Office of Procurement is responsible for purchasing or supervising the purchase of County goods, services, and construction (subject to the Procurement Law).<sup>29</sup> In 2015, the Office of Procurement separated from the Department of General Services and became a standalone office. It currently has 35 full-time positions and two part-time positions. Department responsibilities are shared between the Procurement Division and the Business Relations and Compliance Division.

The Procurement Division. The Procurement Division consists of the Procurement Operations Section and Procurement Services Section.

- The Procurement Operations Section helps department staff make purchases in the most timely and cost-effective manner. This includes helping with the development of solicitations and contracts, offering training courses, and creating standard contract templates.
- The Procurement Services Section is responsible for the overall direction of the Office, including oversight and support of the Contract Review Committee,<sup>30</sup> budget preparation and monitoring, scanning procurement documents, customer service assistance, and coordination of training and certification tracking requirements.

The Business Relations and Compliance Division. This Division plans and implements strategies to expand business opportunities for minority, female, and disabled-owned business owners and local small businesses through the MFD Program and the LSBRP. The Division also ensures contract compliance with other County policies, including the Wage Reporting and Prevailing Wage Laws.

**Using Departments.** A Using Department is any County department that seeks to purchase goods, services, or construction. Contract administrators in each department oversee the daily management of individual procurements and the resulting contracts. There are over 200 contract administrators Countywide. Each Using Department establishes its own process to manage contracts – from a team of contract administrators in the Department of Health and Human Services to a single contract administrator in departments such as the Department of Corrections and Rehabilitation and the Department of Recreation. Using Departments are responsible for preparing contract solicitations, ensuring funds to pay for goods or services, conducting vendor

<sup>28</sup> Montgomery County Government Professional Development Programs, Overview of Contract Administration in Montgomery County, training course offered by the Office of Procurement, October 16, 2017. See also OLO Report 2017-3.

<sup>29</sup> §11B-6(a)(b)

<sup>30</sup> The Contract Review Committee membership includes the CAO, the Director of Procurement, the Director of OMB, and the Director of the Staff of the County Council (or their designees). The Committee reviews proposed changes in contract scope or compensation not provided for in the contract, modifications exceeding certain dollar thresholds, and other actions requiring approval (e.g., extensions and waivers) and provides a recommendation to the CAO.

outreach, reviewing eligible bids, selecting an awardee, conducting negotiations, and recommending contract execution.

**Department of Finance.** The Department of Finance’s primary responsibilities during contract development and execution are to ensure that vendors meet insurance requirements (Division of Risk Management) and to oversee payment of vendor invoices (Accounts Payable Section of the Controller Division).

**Office of Management and Budget.** Prior to submitting a solicitation to the Office of Procurement, the Office of Management and Budget is tasked with ensuring a Using Department has sufficient funds in its budget to cover the cost of the contract. The Office also reviews and approves departmental budgets, requests for exceptions during procurement freezes, and grant applications and awards.

**County Attorney’s Office.** Prior to finalizing contracts, the Office of the County Attorney reviews and approves contracts for form and legality proposed revisions to the General Conditions of Contract. Upon request, the Office will also review solicitations and advise participants on legal issues and interpretations of the law and regulations.

**The County Executive and County Council.** The County Executive establishes the parameters for soliciting and nominating recipients for Executive Community Grants as part of the annual budget development process (grants are included in the Executive’s Recommended Budget). County law also authorizes the County Council to make similar non-competitive grant awards through the budget process.<sup>31</sup> These awards ultimately are turned into contracts with the grant recipients.

### **C. Executive Branch Staff-Identified Reasons for Contracting for Services**

When identifying a need for professional or non-professional services, department staff make an initial determination of whether existing staff and resources are available to fulfill the need, and if not, whether to fulfill the need via a contract with an outside vendor. If the determination is made to contract, Executive Branch departments begin the procurement process. From October 2017 through January 2018, OLO met with department staff to understand this decision-making process.<sup>32</sup> OLO found that staff consistently identified common reasons service contracts are used to meet program and department goals, summarized in Table 5.

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<sup>31</sup> §11B-14(a).

<sup>32</sup> OLO met with County departments who commit the most to contractual services: Department of Correction and Rehabilitation, Department of Finance, Fire and Rescue Service, Department of General Services, Department of Health and Human Services, Department of Housing and Community Affairs, Office of Human Resources, Department of Liquor Control, Department of Police, Department of Technology Services, and Department of Transportation.

Table 5. Staff Identified Reasons for Contracting for Professional and Non-Professional Services

|                              |  |
|------------------------------|--|
| <b>Budget Constraints</b>    | <ul style="list-style-type: none"> <li>Contractual services are used to support staffing needs during times of fiscal constraint.</li> <li>Since the Great Recession of 2008, the County has eliminated positions and full-time equivalents (FTEs) and enforced hiring freezes to meet funding levels. Although the financial outlook has improved, tax supported FTEs decreased by 343.8 FTEs, or 4.0% percent, from FY08 to FY17.</li> </ul> |
| <b>Flexibility</b>           | <ul style="list-style-type: none"> <li>Service contracts allow departments to quickly scale up or down services.</li> <li>The Department of Police hired a vendor to quickly ramp up redaction of body camera video to meet Maryland Public Information Act (MPIA) deadlines. Police utilized a contract to allow time to understand program requirements, staffing needs, and costs and to evaluate solutions.</li> </ul>                     |
| <b>Legal Requirements</b>    | <ul style="list-style-type: none"> <li>By law, certain services may require contracting with outside vendors.</li> <li>County Code, Chapter 20, <i>Finance</i>, requires the contracting of financial advisors for debt management to ensure arm-length transactions.</li> </ul>   |
| <b>Methodology</b>           | <ul style="list-style-type: none"> <li>Departments benefit from contracting with vendors who have specialized methodology, including documented procedures for managing specific processes (i.e., insurance claims).</li> <li>The Executive Branch hired consultants to study the privatization of the Department of Liquor Control and the Department of Permitting Services Fee for Service.</li> </ul>                                      |
| <b>Specialized Expertise</b> | <ul style="list-style-type: none"> <li>Staff report contracting to fill specific staffing need.</li> <li>Examples include doctors, insurance brokers, psychologists, engineering consultants, financial advisors, etc.</li> </ul>  |
| <b>Staff Capacity</b>        | <ul style="list-style-type: none"> <li>Contracting helps manage peak workloads by bringing in additional staff.</li> <li>For example, departments contract with vendors to provide timely snow removal or plumbing services.</li> <li>The Department of Transportation uses vendors for sign installation to supplement internal staff during summer months.</li> </ul>  |
| <b>Target Populations</b>    | <ul style="list-style-type: none"> <li>Departments leverage community partners to serve target populations.</li> <li>Health and Human Services makes a deliberate effort to maintain ties with community organizations to bridge cultural and language needs. Contracting helps accomplish this goal.</li> </ul>   |
| <b>Technology</b>            | <ul style="list-style-type: none"> <li>Contracting allows departments to respond quickly to technology updates or implement new systems.</li> <li>DTS uses contracts for “best of breed” systems (e.g., MCTime) to implement technology solutions that meet enterprise-wide needs.</li> </ul>  |

**Chapter 2. Overview of Montgomery County Service Contracts: Wages & Staffing**

The Council asked OLO to examine contractor wages, wage adjustments (specifically for multi-year contracts), and the size of the contractor workforce employed on County service contracts. To this end, OLO reviewed applicable County laws, available data, and a sample of 34 contracts managed in FY17 by Executive Branch departments that award the most dollars for professional and non-professional service contracts.<sup>33</sup>

At the outset, OLO notes that it is difficult to obtain contractor staffing counts due to the nature of fixed-price contracts and a lack of reporting requirements. As such, OLO sought alternative data sources to estimate contractor staffing, including a count of active contractors using Police Access Identification (ID) cards given that every County employee, contractor, intern, and volunteer whose position requires access to a County facility is issued an ID. During this data collection effort, OLO identified several lapses in MCPD's security processes for ID cards. While an examination of these security lapses falls outside the initial scope of the OLO project, this report addresses data management and the processes used to monitor contract employee ID cards and facility access (See Section D of this Chapter).

Key findings include:

- Beyond the County's Wage Requirements Law that requires quarterly payroll reporting for certain vendors, the County does not legally or contractually require the collection of contractor staffing and wage data.
- The County adjusts minimum pay rates in service contracts via annual adjustments under the Wage Requirements Law and through a standard price adjustment contract clause. Vendors are not required to report hourly wage rate increases, making it difficult to track adjustments over the life of the contract.
- Under fixed-price contracts, the burden is on the vendor to meet performance deadlines or metrics, including managing the number of employees servicing the contract. Unless the solicitation defines a staffing count or a count is provided by the vendor (e.g., budget summary), it is difficult to count contract employees for County service contracts.
- Using Wage Requirements Law reporting records to estimate a count of contractors, Procurement staff indicate that the Office reviews 6,000 to 6,500 employee payroll records per quarter. However, this estimate is based on a sample of contracts and does not include over 400 contracts that fall under a Wage Requirement Law exception. Also, staff note this data is not collected as part of annual reporting requirements or supplied by vendors.
- Due to security system data quality issues, OLO was unable to obtain a count of contractors using Police Security Services Access ID card data. OLO found that the Access ID Card Program lacks established standards for auditing the security access system to maintain data accuracy.

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<sup>33</sup> OLO reviewed 34 contract examples currently managed by the following County Government Departments: Department of Correction and Rehabilitation, Department of Finance, Fire and Rescue Service, Department of General Services, Department of Health and Human Services, Department of Housing and Community Affairs, Office of Human Resources, Department of Liquor Control, Department of Police, Department of Technology Services, and Department of Transportation.

Each section below summarizes applicable laws and provides examples to identify the structure and format of wage and staffing requirements found in FY17 service contracts. This chapter is organized as follows:

- **Section A**, Summary of the County's Wage Requirements Law;
- **Section B**, Wage Clauses and Price Adjustment Clauses in County Service Contracts;
- **Section C**, Counting Staff in County Service Contracts; and
- **Section D**, Identification (ID) Card Security System Data Quality Issues.

#### **A. Summary of the County's Wage Requirements Law**

The Council asked OLO to examine whether County service contracts identify contractor wages. County service contracts must adhere to the County's Wage Requirements Law (WRL) requiring vendors to pay a minimum hourly wage rate and submit payroll reports to the Office of Procurement for review. Beyond this requirement, County departments do not define contractor wages nor collect data on wage rates. The WRL requires covered vendors (service contractors and subcontractors) to pay a minimum hourly wage rate to employees who perform direct, measurable work on qualified County service contracts. The current Wage Requirements Rate is \$14.55 per hour through June 30, 2018.<sup>34</sup>

**WRL Exceptions.** The WRL applies to qualified County service contracts, with applicability limited based on characteristics of the vendor, the contract, solicitation method, or employee status. The WRL does not apply to:

- A contractor who has received less than \$50,000 from the County in the most recent 12-month period, and who will receive less than \$50,000 from the County under that contract in the next 12 months;
- A contractor who is expressly precluded from complying with the Law by the terms of any federal or state law, contract or grant;
- A contract with a public entity;
- A contract with a nonprofit organization that has qualified for an exemption from federal income taxes under Section 501(c)(3) of the Internal Revenue Code;
- A non-competitive contract (County Code Section 11B-14) if the Chief Administrative Officer finds that performance of the contract would be significantly impaired if wage requirements applied;
- A contract for electricity, telephone, cable television, water, sewer, or similar service delivered by a regulated public utility;
- A contract for services needed immediately to prevent or respond to an imminent threat to public health or safety;
- A bridge contract (§11B-42);
- A contract entered under a cooperative procurement (§11B-40);
- An employee who performs no measurable work related to any County contract;

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<sup>34</sup> For employees that do not earn an hourly wage, a labor rate is calculated by dividing total amount paid each pay period by the total number of hours worked for each pay period. Montgomery County Code §11B-33A(e).

- An employee who participates in a government-operated or -sponsored program that restricts earnings or wages to a level below the Wage Requirements Rate; or
- An employee who participated for no longer than 120 days in a government-operated or -sponsored summer youth program.<sup>35</sup>

#### **WRL and Contracts with Sole Proprietors**

The WRL applies to sole proprietorship (a business owned and run by a single individual, where the individual is entitled to all profits and responsible for all the business' debt, losses, and liabilities).<sup>36</sup> However, sole proprietors can be excused from WRL posting and reporting requirements, if they certify that they:

- Are aware of and will comply with the WRL, as applicable;
- Have no employees other than the sole proprietor; and
- Will inform the Office of Business and Compliance (Procurement) if the sole proprietor employs any workers other than the sole proprietor.<sup>37</sup>

**WRL Contract and Reporting Requirements.** Using Departments are required to attach an addendum to the General Conditions of Contract that outlines the WRL wage rate, reporting requirements, and enforcement provisions (See Appendix B). As part of the bid or proposal process, each vendor must indicate whether an exception is claimed, and if not, how the vendor and subcontractors will comply with the WRL. Once work begins under each contract, vendors submit quarterly payroll reports to Procurement. These reports must include wages paid to covered employees (i.e., hours worked and rate of pay), health insurance and other fringe benefits, and demographic information (See Appendix C). The Office of Procurement routinely monitors vendor-provided quarterly payroll reports to ensure compliance with the Law.

The Office of Procurement is required to annually report on wage evaluation data submitted by covered vendors. These reports include the total number of contracts subject to the WRL (including the number of minority-owned businesses), number of reports referred to the Office of Human Rights for investigation, number of probable cause findings, list of sanctions, and any other information related to wage equity.<sup>38</sup> With reporting focused on enforcement, this report does not currently include a summary of contractor wages.

**WRL Enforcement.** Under the Law, the Director of Procurement is required to conduct audits and investigate any complaint of a WRL violation. When an audit reveals wage payment below the required hourly rate, Procurement requires the vendor to issue payments to the affected employees.

**FY16 WRL Statistics.** From FY11 to FY16, the number of contracts subject to the WRL increased 24%, from 673 contracts to 831 contracts (Table 6). In FY16, of the 831 service contracts subject to the WRL, 44% (362) of contracts operated under the WRL (meaning the vendor did not claim an exception) and vendors claimed a WRL exception in 56% (469) of contracts.<sup>39</sup> Of note, if a vendor claims an exception or the contract falls under an excluded source selection method, the vendor does not submit quarterly payroll reports.

<sup>35</sup> §11B-33A(b).

<sup>36</sup> The U.S. Small Business Association, Sole Proprietorship, available at <https://www.sba.gov/content/sole-proprietorship>.

<sup>37</sup> Office of Procurement, Wage Requirements Law FAQ, available at <https://www.montgomerycountymd.gov/pro/dbrc/WRL.html>

<sup>38</sup> Montgomery County Code §11B-33A(g)(10).

<sup>39</sup> Office of Procurement, FY16 Wage Requirements Law Annual Report, available at <http://www.montgomerycountymd.gov/pro/PRONumbers.html>.



**Table 6. Contracts Subject to the WRL (FY11 – FY16)<sup>40</sup>**

| <b>Contracts Subject to WRL</b>           | <b>FY11</b> | <b>FY12</b> | <b>FY13</b> | <b>FY14</b> | <b>FY15</b> | <b>FY16</b> |
|---|-------------|-------------|-------------|-------------|-------------|-------------|
| <b>Total #</b>                            | <b>673</b>  | <b>615</b>  | <b>641</b>  | <b>413</b>  | <b>659</b>  | <b>831</b>  |
| Operating Under the WRL<br>(No Exception) | 190<br>28%  | 254<br>41%  | 257<br>40%  | 169<br>41%  | 274<br>42%  | 362<br>44%  |
| Vendor-Claimed Exception                  | 483<br>72%  | 361<br>59%  | 384<br>60%  | 244<br>59%  | 385<br>58%  | 469<br>56%  |

Vendors may select one of four WRL exceptions on the WRL contract addendum.<sup>41</sup> In addition, a vendor may also receive a WRL waiver from the County's Chief Administrative Officer. The data in the next table show that in FY16, of the 469 contracts with a vendor-claimed exception, 70% (328 contracts) are attributed to a vendor receiving less than \$50,000 in the last 12 months and who will receive less than \$50,000 in the succeeding 12 months; followed by 28% (129 contracts) of exceptions claimed due to a vendor's status as a nonprofit entity.

**Table 7. Vendor-Claimed Exceptions to the WRL (FY16)<sup>42</sup>**

| <b>Exception</b>              | <b>Description</b>  | <b>No. of Contracts</b> |
|-------------------------------|---|-------------------------|
| <b>Exception #1</b>           | Vendor received less than \$50,000 in the last 12 months and will receive less than \$50,000 in the succeeding 12 months. | 328                     |
| <b>Exception #2</b>           | Vendor is a public entity.  | 8                       |
| <b>Exception #3</b>           | Vendor is a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code.                                  | 129                     |
| <b>Exception #4</b>           | Vendor is expressly precluded from complying with the WRL by the terms of a federal or state law, contract, or grant.     | 0                       |
| <b>Exceptions #1 &amp; #3</b> |   | 1                       |
| <b>CAO Waiver</b>             |   | 3                       |
| <b>Total</b>                  |   | <b>469</b>              |

## **B. Wage Clauses and Price Adjustment Clauses in County Service Contracts**

OLO reviewed wage clauses for 34 contracts managed by departments that had the highest contractual dollars awarded for professional and non-professional services in FY17, along with supporting documentation (e.g., solicitation, proposal, or amendments). All contracts reviewed fixed a price based either on labor category,

<sup>40</sup> *Ibid.*

<sup>41</sup> Prior to April 1, 2010, contractors could claim an exception if they employed fewer than 10 employees. This exception was repealed.

<sup>42</sup> Office of Procurement, FY16 Wage Requirements Law Annual Report.

service provided, or unit price. This section describes how price is defined in different types of County contracts and summarizes the County's typical price adjustment clause in contracts.

**Setting Price by Type of Employee.** County departments typically identify labor categories required to complete the work in a contract (e.g., laborer, instructor, program manager, IT consultant, etc.) and the number of expected hours. Prospective vendors bid or propose hourly rates for each labor category that include all related costs (e.g., benefits, over-time, etc.). The rates are evaluated as part of the departments' price analysis and the County's cost price analysis where applicable and written into the contract award. This is the only type of contract (reviewed by OLO) where specific wage rates are included in the executed contract. Examples include:

- *Fire and Rescue Service (FRS), contract with Roger M. Stone, M.D., for services performed as Medical Director.* FRS defined the scope of services and expected work hours. The contract included the vendor-proposed rate (\$112 per hour) multiplied by expected hours per month (160 hours per month).
- *Police, Contract with Bradley Technologies, Inc., for County-wide security guard services.* Police defined labor categories, number of positions, hours per week, and facilities receiving security services. Bradley Technologies' bid and the subsequent contract included the following rates: Security Guard at \$22.41 per hour; Security Supervisor at \$33.90 per hour; and Roving Security Supervisor at \$29.63 per hour.
- *Human Resources, contract with Athena Consulting, LLC, for temporary administrative support services.* Agreed upon rates are as following - Executive Security at \$19.97 per hour; Secretary/Legal Secretary at \$21.00 per hour; and Office Worker at \$18.93 per hour. Under the contract, departments submit requests for temporary support services directly to Athena Consulting. Athena Consulting provides a monthly report to the County detailing the positions filled and contractor timecards.

**Setting Price based on Service Provided.** These contracts fix prices based on the type or quantity of services provided (e.g., landscaping, medical services). Proposed rates are evaluated as part of the departments' price analysis and the County's cost price analysis where applicable and written into the contract award. Labor rates are typically incorporated into the cost for each service and not separately identified. Examples include:

- *Fire and Rescue Service (FRS), contract with Alliant Insurance Services for broker services for property and casualty insurance.* The contract details the FRS-defined scope of work based on a fixed annual cost of \$70,000 (payable in quarterly payments) and does not identify wage rates.
- *Liquor Control, contract with QST, Inc. for a new conveyor belt system.* Compensation under this contract is a fixed fee inclusive of all costs, including labor. The total contract award was \$3.5 million, with 25% paid at delivery of the new equipment; 50% paid at installation; and 25% paid when the old system is dismantled.

**Setting Price Per Unit.** For these contracts, fixed prices are based on a price per unit purchased (e.g., manhole covers, homes). The rates are evaluated as part of the departments' price analysis and the County's cost price analysis where applicable and written into the contract award. Labor rates are typically included in the cost per unit. Examples include:

- *Environmental Protection (DEP), contract with Unity Disposal & Recycling for recycling and trash collection.* DEP supplies Unity Disposal with the number of properties requiring trash and recycling services each quarter. Per unit costs are divided into five components: refuse, yard trim, recyclable material, scrap metal, and bulk waste (Table 8). Labor rates are included in the total per unit fee.

**Table 8. Per Unit Collection Fee for DEP Trash and Recycling Collection Contract**

| Component | Refuse | Yard Trim | Recyclable<br>Material | Scrap Metal | Bulk Waste | Total Monthly<br>Service Fee |
|-----------|--------|-----------|------------------------|-------------|------------|------------------------------|
| Fee       | \$3.78 | \$2.17    | \$4.52                 | \$0.73      | \$0.54     | \$11.74                      |

- *Environmental Protection, contract with Magnolia Plumbing, Inc. for routine maintenance, cleaning, and minor repair of existing underground stormwater management facilities.* Compensation is based on unit prices multiplied by estimated quantities. For example, replacement of a traffic bearing manhole cover is \$310 per unit. This fixed-fee includes full payment for the manhole cover, labor, transportation, materials, tools, equipment, incidentals for installation, and disposal of the old item.

**Setting Price Multiple Ways in a Single Contract.** OLO also reviewed contracts that were a combination of wage rates and prices per service or unit. For example, a contract to provide correctional education services between the Department of Correction and Rehabilitation and Montgomery College is fixed-price by:

- *Labor category* - A program administrator at \$36 per hour for 2,080 hours and an office associate at \$20.40 per hour for 1,040 hours;
- *Service* - Instructional costs are based on class offerings with costs determined on a per hour basis (e.g., GED classes at 645 hours at \$30 per hour); and
- *Unit* - Costs for supplies and materials (e.g., classroom texts and whiteboard markers).

**Adjusting Prices in County Service Contracts.** OLO found wage adjustments are governed by the Wage Requirements Law and contract terms and conditions.

*Wage Requirements Law.* As discussed above, County law establishes a minimum hourly rate for contractors on eligible County service contracts through the WRL. The WRL rate is annually set on July First and can be adjusted based on the Consumer Price Index for All Urban Consumers (CPI-U) in the Washington-Baltimore area. For example, the effective WRL rate as of July 1, 2016 was \$14.40. The rate increased to \$14.55 as of July 1, 2017. Of note, the Law requires an increase to the minimum hourly wage rate paid, but does not reflect year to year change in employee salaries if wages are above the WRL requirement.

*Contract Terms and Conditions.* For multi-year and single year contracts with renewal options, the County uses a standard price adjustment clause requiring fixed-prices for a two-year period following contract execution or

variation of time and indexes.<sup>43</sup> Vendors must provide justification for requesting a price adjustment and receive approval from Procurement. (See Table 9 for the County's Price Adjustment Clause). Vendors can request price adjustments based on the total contract amount or based on individual labor, service, or unit prices in a contract. Similar to wage rates, vendors are not required to report hourly wage rate increases, thus making it difficult to track adjustments over the life of the contract.

**Table 9. Standard Price Adjustment Clause<sup>44</sup>**

Prices quoted are firm for a period of two years after execution of the contract. Any request for a price adjustment, after this two-year period is subject to the following:

- Approval or rejection by the Director, Office of Procurement, or designee.
- Must be submitted in writing to the Director, Office of Procurement and accompanied by supporting documentation justifying the Contractor's request. A request for any price adjustment may not be approved unless the Contractor submits to the County sufficient justification to support that the Contractor's request is based on its net increase in costs in delivering the goods/services under the contract.
- Must be submitted sixty (60) days prior to contract expiration date, if the contract is being amended.
- Must not be approved in an amount that exceeds the amount of the annual percentage change of the Consumer Price Index (CPI) for the twelve-month period immediately prior to the date of the request. The request shall be based upon the CPI for all urban consumers issued for the Washington-Baltimore, DC-MD-VA-WV Metropolitan area by the United States Department of Labor, Bureau of Labor Statistics for ALL ITEMS.
- The County will approve only one price adjustment for each contract term, if a price adjustment is approved.
- Should be effective sixty (60) days from the date of receipt of the Contractor's request.
- Effective only if executed by written contract amendment.

<sup>43</sup> As reported by the County Attorney's Office, the standard clause is the most common wage adjustment clause used by County departments. Departments can use alternate price adjustment clauses. Examples include allowing annual price increases for landscaping and snow removal service; predetermined price adjustments for contract out-years defined in the original contract document; and set price increases for maintenance services or technology licenses.

<sup>44</sup> Office of Procurement and County Attorney's Office.

### C. Counting Staff in County Service Contracts

The Council asked OLO to count the number of contractors employed on County service contracts. To this end, OLO met with departments, reviewed a sample of FY17 contracts, and worked with Procurement and the Police Security Services Division to review available data sources. In sum, OLO found that certain service contracts may include a contractor count, but, in general, vendors are not required to provide staffing data. OLO sought to obtain a staffing count using WRL payroll reporting data and Police Security Services Access ID card data. However, OLO found that while WRL payroll reporting data provides a rough estimate, neither data source yields reliable staffing counts. This section examines the format of staffing requirements in County service contracts and limitations of using WRL reporting data and Access ID card data.

As discussed in Section A, covered vendors are required to submit payroll reports to Procurement for employees who perform direct, measurable work on County contracts. Although the Office collects employee payroll information, the vendors do not report the total number of employees working on a contract (employee counts can range from a single employee to over 250 employees). Procurement staff estimate that they review between 6,000 and 6,500 employee records each quarter.<sup>45</sup> However, this estimate is based on a sample of contracts and not provided as part of routine reporting requirements. Additionally, this estimate does not count employees on contracts that are exempted from the WRL.

Generally, departments do not require and vendors do not report the number of employees working via County service contracts because vendors assume the burden of risk to meet performance obligations (including managing the number of employees in fixed-price contracts – the County’s preferred type of contract). OLO examined 34 contracts managed by Executive Branch departments that had the highest contractual dollars awarded for professional and non-professional services in FY17. OLO found that the majority of contracts listed a minimum number of positions while only seven of the 34 contracts provided a total staffing count.

- **Seven of the 34 contracts or supporting documents – such as FY17 contract budget summaries – indicated a staffing count. Examples include contracts with sole proprietors and contracts that specified a staffing count to meet performance metrics.**

**Table 10. Examples of Contracts with Number of Contractors Defined**

| Category   | Contract Example  |
|--|---|
| Number of Staff Identified in the Contract Solicitation                          | A contract between DGS and JVG Enterprises for HVAC cleaning where DGS required a three-person crew.  |
| Number of Staff Identified in the Attached Budget Summary Provided by the Vendor | A contract between DHCA and CASA de Maryland for Tenant Counseling included a budget summary detailing the number and names of employees (including FTE hours) providing direct and indirect services under the contract. |
| Contract with a Sole Proprietor  | A contract between FRS and Roger Stone, M.D., for medical director services.  |

<sup>45</sup> Office of Procurement

- **Seventeen of the 34 contracts or supporting documents – such as available proposals or solicitations – provided a minimum staffing count (e.g., key personnel or positions).**

Key Personnel. Vendors often name key personnel in their proposals (e.g., project managers or analysts). Key personnel are listed in the executed contract and any changes to the named personnel require notice and approval of the department administering the contract.

Crew Size or Positions. Departments may define expected crew size or number of positions. Vendors must meet these requirements, but can also provide additional personnel to meet performance goals or have a single employee serve multiple roles on a single contract.

**Table 11. Examples of Contracts with Established Minimum Number of Contractors**

| Example                | Description  |
|------------------------|--|
| Key Personnel          | <ul style="list-style-type: none"> <li>• An OHR contract with Athena Consulting for temporary support personnel where the proposal lists three personnel and a minimum of 15 pre-qualified staff in each required labor category.</li> <li>• A DEP contract with Stormwater Maintenance, LLC, for stormwater facility inspection services where the proposal names 38 key staff and over 230 employees available to work on the contract.</li> </ul>   |
| Crew Size or Positions | <ul style="list-style-type: none"> <li>• A Police contract with BTI Security to provide security services at County facilities. Solicitation required a minimum of 32 positions at Court buildings (positions are not enumerated at other County facilities). A position can be filled by multiple employees. For example, solicitation states five security guard positions can equal 11 employees to meet required hours.</li> <li>• A DEP contract with Ecology Services for trash and recycling collection. The solicitation defines a crew as one driver and <i>at least</i> one helper per vehicle per route.</li> </ul> |

- **Ten of the 34 contracts did not contain any staffing information.**

Examples of these contracts include:

- Task order contracts (e.g., a Department of Finance contract with Public Resource Advisory Group for independent advisory services - staff are named on each approved task order);
- Fixed-fee for service contracts (e.g., a DLC contract with QST, Inc. for installation of a conveyor belt system where the award is based on completion of each project stage); and
- Fixed-fee per unit contracts (e.g., a DEP contract with Magnolia Plumbing where costs are based on a per unit charge for materials).

#### D. Identification (ID) Card Security System Data Quality Issues

As a way to count County Government contractors, OLO requested Police Access ID Card Data from the Montgomery County Police Department's Security Services Division, which manages the Access ID Card Program. Every County employee, contractor, intern, and volunteer whose position requires access to a County facility is issued an Access Identification (ID) card – with visually different ID cards and access levels for each employee category. This system contains data on all cards issued by employee category (i.e., County employee, contractor, intern and volunteer), department, and ID activation date.

OLO sought to use ID card data to estimate the number of contractors working on-site in County facilities compared to County employees, the departments with the highest number of contractors on-site, and the average length of time a contractor is actively employed as a contract employee. Unfortunately, OLO found that due to the lack of management and oversight of the Access ID Card Program, the data system could not provide the information requested. This includes:

- The total number of active contractors County-wide and by department;
- The departments with highest number of contractors; and
- The length of time a contractor is active.

OLO discusses these findings in further detail below.

##### 1. Overview of the County's ID Card Access Program

Among other duties, the Police Security Services Division manages County facility and personnel security. The Security Services Division has 46 FTEs with an approved FY17 operating budget of \$5.3 million. Of these 46 FTEs, three FTEs, are responsible for issuing and monitoring Access ID cards for County employees, contractors, interns, and volunteers, including access privileges (the Division Director (Manager III) and two Program Specialists (Grade 18)). The Division uses Kantech Security System software and hardware to manage ID card access at County facilities.

On average, the Security Services Division issues 3,000 ID cards each year.<sup>46</sup> ID card access points are in areas to which the public does not have access. For these restricted access points, employees or contractors with approved access must place their ID card against an ID card reader to gain access.

**Process for Obtaining an Access ID Card.** To obtain an ID card, departments submit applications for employees or contractors that are signed by a department's assigned point of contact to the Security Services Division.<sup>47</sup> The application includes employee data, including status (e.g., employee, contractor, or volunteer), reason for ID card issuance, and list of locations to be accessed. Applicants must present a valid State identification to receive an ID card. Police employees and contractors complete an alternate application and also undergo a background investigation.

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<sup>46</sup> Fire and Rescue Service and the Department of Correction and Rehabilitation issue their own ID cards, with Security Services managing access privileges for Fire and Rescue Service facilities.

<sup>47</sup> This is the same application completed by all non-police personnel (employee, volunteer, intern, contractor, and board and commission member).

**Process for Adding/Removing Access or Deactivating an Access ID Card.** ID card access can be revoked if a contractor or employee is not completing assigned tasks, not following County procedures, or by request of the employee or contractor's department. County departments can utilize a webform on Security Services SharePoint site to add, change, or remove access privileges. Once notified, it takes up to 10 days to remove an ID card (and contractor) from the security system.

The Security Services Division does not have established procedures to deactivate ID cards when contractors leave County service.<sup>48</sup> While OHR includes the returning of ID cards on a checklist as part of County Employee Exit Process, data and information that OLO received from the Security Services Division shows variation across departments in the handling of contractor ID cards, with some departments having documented return procedures while others do not. Unlike OHR's role as a central point to manage and oversee County employee records and status, the County presently lacks a similar centralized system to monitor active contractors. As a result, there are examples of contractors not returning their ID cards when leaving County service resulting in security system accountability issues in determining contractor status.

## **1. OLO Data Request**

In October 2017, OLO requested Security Services provide the number of County employees and contractors by department and active date for each contractor ID card. Four months later in March 2018, Security Services provided OLO with an Excel spreadsheet identifying 1,543 contractors with active Access ID cards (as of January 18, 2018), their assigned department, and an ID card activation date for each contractor. Security Services was not able to provide data on County employees with active ID cards due to data quality issues.

OLO began its data analysis by filtering the departments with the highest number of contractors working on-site in County facilities. The County Council was listed as a top department with 25 active contractors (with access to County facilities). OLO reviewed the list of Council contractors and found data errors for five out of 25 named contractors, or 20%. For example, contractors were listed as active, but are either no longer with the County or are assigned to different departments. Additionally, OLO reviewed a list of active contractors on an audit services contract managed by OLO. OLO found that of eight active contractors with access to County facilities, five contractors were missing from the data provided by Security Services. This cursory review highlighted several problems that may be indicative of larger data quality issues in the full dataset. As such, OLO is unable to use the data to provide a reliable count of contractors with access to County facilities or average length of time a contractor is actively employed as a contract employee.

OLO met with Security Services staff in March to discuss ID card procedures and program requirements. OLO found that the program lacked clear, established standards for auditing the security access system to maintain data accuracy. In addition, OLO found several lapses in security processes, including Executive Branch departments' knowledge of security procedures, unauthorized access to County facilities, and County employee and contractor accountability.

## **2. Access ID Card Security Maintenance**

Staff report that limited staffing and required data cleansing efforts delayed efforts to provide a current count of contractors with access to County facilities. For example, each ID card entry required staff review to determine whether the contractor is currently employed on a County contract. Security Services staff reported that the security system initially, in January, contained over 4,800 active contractor ID cards; after staff review the

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<sup>48</sup> <http://www.montgomerycountymd.gov/HR/Resources/Files/Perform/PropertyChecklist.pdf>



system reported 1,543 active contractor ID cards. Staff identified the following issues which resulted in an inflated count of active ID cards:

- Inconsistencies in the system due to contractors and County employees being identified in the same access levels;
- Employees or contractors with multiple Access ID cards;
- Multiple entries for the same department name (i.e., the system currently contains over 95 County departments); and
- Contractors categorized under a project name rather than with the department administering the contract.

### 3. Count of Contractors with Active Access ID Cards

Security Services provided OLO with an Excel spreadsheet containing a list of contractors with active Access ID cards (as of January 18, 2018), their assigned department, and initial ID card activation dates for each contractor. OLO performed a cursory review of 36 contractor ID card entries known to OLO staff. OLO determined that the data contained multiple errors where correction of these errors would change the total number of active contractors with access to County facilities, a count by administering departments, and active dates of ID cards. A more comprehensive study needs to be performed County-wide to determine the extent of these identified issues. OLO expects other data issues may be identified as part of this study.

Given the errors highlighted in Table 12, OLO is unable to provide a reliable count of contractors with access to County facilities or average length of time a contractor works for the County.

**Table 12. OLO Identified Issues with Contractor Access ID Card Data**

| Identified Issue  | Example(s)  |
|---|---|
| Known contractors with Active ID cards not included in the data           | <ul style="list-style-type: none"> <li>• For a County Council contract where ID card access is managed by the Department of Finance, only three of the eight contractors with active ID cards were listed in the data set.</li> </ul> |
| Active ID cards assigned to contractors no longer working with the County | <ul style="list-style-type: none"> <li>• A County Council contractor who left employment in August 2017 was listed as an active ID card holder.</li> </ul>  |
| Contractors-turned-employees still categorized as contractors             | <ul style="list-style-type: none"> <li>• Two employees hired initially as contractors then hired into County employee positions were still listed as contractors. One was hired in 2014 and one in 2017.</li> </ul>                   |

Table 12. OLO Identified Issues with Contractor Access ID Card Data, Cont'd.

| Identified Issue                        | Example(s)  |
|---|---|
| Inaccurate departments                  | <ul style="list-style-type: none"> <li>The correct departments of two contractors were misidentified. One Department of Correction and Rehabilitation contractor was assigned to the County Council and one Office of Management and Budget contractor assigned to the Department of Transportation.</li> </ul> |
| Inaccurate access ID card dates         | <ul style="list-style-type: none"> <li>Reported ID card activation dates differed from known length of time as County contractors.</li> </ul>   |
| Replaced ID card re-started active date | <ul style="list-style-type: none"> <li>A long-term contractor received a replacement ID card in 2016 and his active date was changed in the system to 2016.</li> </ul>  |

In addition to overarching data quality issues discussed above, OLO also found data entry errors resulting in duplicate departments and improperly entered or missing ID card active dates.

#### 4. Additional Identified Security Issues

In March 2018, OLO met with the Director of the Security Services Division and staff responsible for managing the Access ID Card Program. OLO did not significantly investigate staffing and process improvements. The following are issues to consider moving forward:

- Past issues with overly-broad access to the Access ID card system and data contributed to the current data problems.**

Currently, 10 employees have access rights to the Access ID card system and data. Until 2010, however, 40 employees had access to the system. Security Services staff report that not appropriately limiting system access rights contributed to the present data integrity and system accountability issues. Although supervised, the Division gave interns system access to manage increased workloads.

- The data issues result in unauthorized individuals having access privileges to County facilities.**

Staff are currently reviewing access levels granted to current employees, contractors, and volunteers. For example, in reviewing the data, Security Services staff found that an upwards of 300 people currently had access privileges to an MCPD area where only nine people should have access. Staff report that it will take time to review Access ID card data and clarify employee and contractor access levels to County facilities.

- The Security Services Division does not have established procedures to deactivate ID cards when contractors leave County service. Also, there is inconsistent knowledge and application of ID card security procedures by department staff.**

At the time of OLO's data request, the Division did not have defined policies for automatic deactivation of or renewal requirements for contractor ID cards. Contractor ID cards remain active until the administering department notifies Security Services to deactivate the card. Security Services does not otherwise deactivate contractor ID cards, leaving past contractors with unauthorized access to County facilities. Security Services also found cases where a contractor was on-site at a County facility for only a short time on an annual basis, a County employee stored active contractor ID cards at the employee's desks, rather than have the ID cards deactivated and then reactivated when the contractor returned.

Security Services staff report increased workloads to define and review access policies and privileges, including establishing policies to control secondary access levels for time-limited projects. At the time of this report, the Security Services Division is developing ID card deactivation and return procedures.

Security Services staff also found that knowledge of processes and procedures vary between departments that frequently and infrequently obtain ID cards. Staff report that time spent explaining the ID card processes with departments that infrequently apply for contractor cards can create delays in issuing ID cards.

- **Improving the security of County facilities will require more staff, increased technology investments, and increased information sharing.**

Security Services staff report that current ID cards use outdated technology and are susceptible to hacking by remote scanning and copying capabilities, allowing hackers to easily clone Access ID cards. Staff are currently developing a plan to issue new ID cards with enhanced security technology. Staff also report the need for enhancements to modernize the security of County facilities, including updated security cameras, technology to alert departments when a perimeter is breached, and building security assessments. These enhancements would require long-term, strategic investments.

Security Services Division staff also report that they were unaware until recently that the County was opening a building in Wheaton. Staff report that installing facility security and issuing ID cards requires a substantial work effort and cite this as an example of how advanced planning and information sharing can increase Division productivity and assist with managing workloads.

### Chapter 3. Contracting Trends

The Council asked OLO to examine County service contracts to better understand the total dollars awarded by departments on service contracts as part of their total operating budget. OLO examined six years (FY12-FY17) of budget information and purchase order details – focusing on contracts for professional and non-professional services – and reviewed in detail procurement activity for the 13 departments with the highest contractual obligations for services in FY17. For FY17, County departments awarded \$1.193 billion in contracts.<sup>1</sup> Service contracts accounted for 33% of total operating contract dollars awarded in FY17 (\$394.7M out of \$1,193.0M) and excluded pass-through grants, direct purchase orders, knowledge transfer contracts, or community grants. This Chapter presents County-wide trends and trends for the departments with the highest dollar amounts in service contracts.

Key findings include:

- County Government operating departments' (e.g., DLC, CUPF, MCFRS) overall contractual dollars awarded (i.e., construction, goods, and services) dwarf administrative departments' (e.g., Finance, DGS, OHR) dollars awarded *and* operating departments procure a much higher percentage of services through contracts.
- Contracts for professional services accounted for the largest portion of services procured in FY17 at 30% (\$118M of the \$394.7M). Examples of contracts for professional services include consulting services, transfer center operations, transit and parking operations, automatic traffic enforcement services, financial advisory services, and occupational and wellness services.
- The highest percentage of dollars awarded for service contracts to the approved operating budget in FY17 was the Department of Environmental Protection and the lowest was the Office of Human Resources.
- From FY12 to FY17, 10 out of 13 top departments saw service contract dollars awarded increase greater than their approved operating budgets.
- Most contract dollars went to existing services contracts, as opposed to contract renewals or new contract awards. Montgomery County Fire and Rescue Service and Montgomery County Police Department awarded the highest percentage of dollars for existing contract services, at 99.7% and 99.2%, respectively.
- The top vendors with the largest service contract dollars awarded in FY17 were:

|   |                |
|---|----------------|
| <b>Northeast MD Waste Disposal</b>                          | \$26.2 million |
| Transfer Station and Resource Recovery Facility Operations  |                |
| <b>Primary Care Coalition of Montgomery County Maryland</b> | \$14.6 million |
| Health Care Services for Uninsured Adults                   |                |
| <b>Conduent State &amp; Local Solutions</b>                 | \$11.7 million |
| Automated Traffic Enforcement; Parking Citation Processing  |                |
| <b>Maryland Environmental Service Recycling</b>             | \$11.2 million |
| Recycling; Yard Trim Composting; Trash Hauling/Removal      |                |
| <b>Brunswick Waste Management</b>                           | \$9.6 million  |
| Trash Hauling/Removal                                       |                |

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<sup>1</sup> This differs from the \$1.08 billion from the Office of Procurement's Record of Procurements (FY17) discussed in Chapter 1 because Procurement's total amount awarded excluded items such as Direct Purchase Orders, administrative procurement types, and full capital improvements program purchase orders for prior year change orders.

This chapter is organized as follows:

- **Section A**, OLO Contract Data Analysis Methodology;
- **Section B**, County Government-Wide Service Contract Trends; and
- **Section C**, Department Service Contract Trends

#### **A. OLO Data Analysis Methodology**

To get a better understanding of the contractual services data in Montgomery County, OLO reviewed the Purchase Order Details report from the County's Enterprise Business Intelligence Reporting Purchasing Dashboard. From the Dashboard, OLO collected data on all purchase orders and funds for all County departments from FY12 to FY17<sup>2</sup>.

In FY17, total County contractual dollars awarded for goods, services, and construction was \$1.193 billion.<sup>3</sup> To focus specifically on professional and non-professional service contracts, OLO excluded contractual awards for:

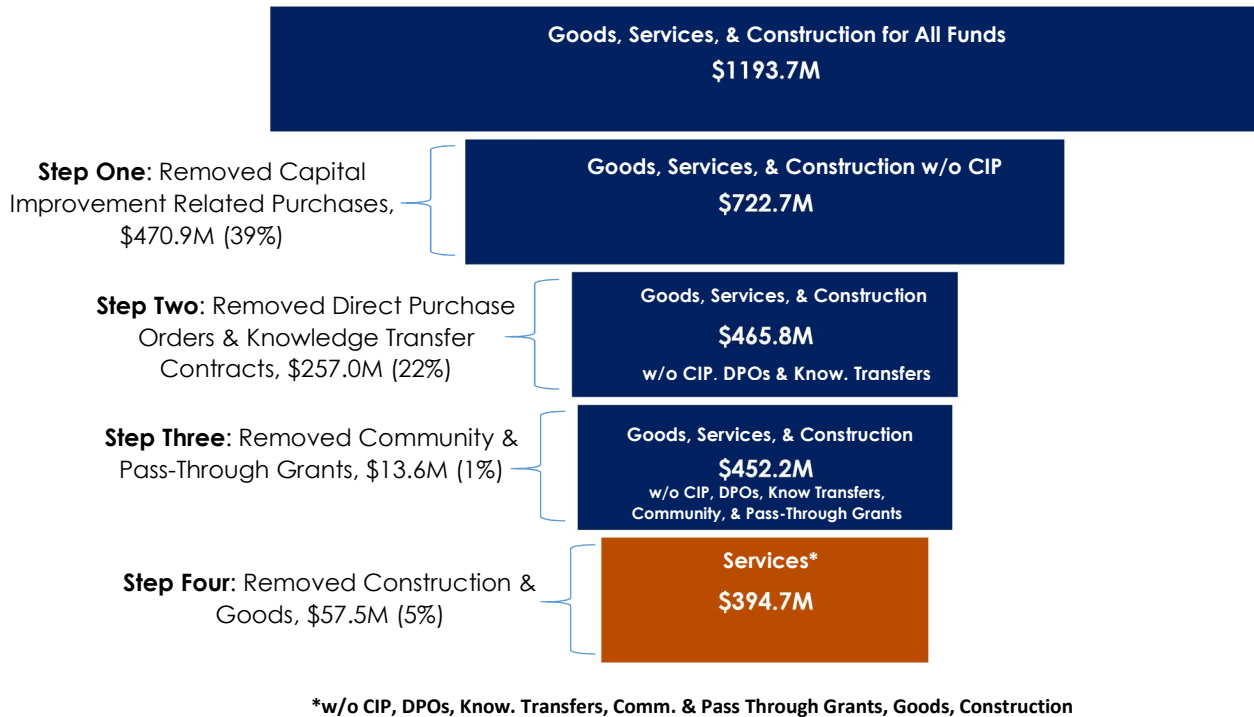
- Capital Improvement Program-related purchases,
- Direct purchase orders,
- Knowledge transfer contracts,
- Community grants,
- Pass-through grants,
- Construction, and
- Goods.

Chart 1 illustrates OLO's methodology for drilling down from the total FY17 contract dollars awarded (\$1.193 billion<sup>4</sup>) to the \$394.7 million awarded for service contracts. Each step in the chart details the contractual spending category, total spending for each category, and the total dollars remaining after the filtering. OLO also applied this filtering to all department purchase order details from FY12 to FY16, described in Sections B and C.

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<sup>2</sup> Unable to go back further than FY12, due to the County's conversion to Oracle for its financial systems and unreliable data in FY11. FY17 was the last fiscal year completed at the time of the analysis. Commodity codes, while available, provide a granular examination of contractual spending; however, to provide Council with a high-level summary OLO utilized account codes to track County-wide and department trends. In some instances, like-account codes were combined to help provide the high-level summary.

**Chart 1. OLO's Process to Determine Total Dollars Awarded for Service Contracts**



## B. County Government-wide Service Contract Trends

This section examines differences in dollars award between administrative and operational departments on service contracts County-wide in FY17, including service contract dollars awarded compared to dollars awarded for goods and operating-related construction contracts and the top five overall services in the County.

The County's organization chart distinguishes Executive Branch departments by function as either administrative or operational, with operational departments providing services and administrative departments supporting the operational departments.<sup>5</sup> OLO used this distinction to explore County-wide service contract trends, comparing spending on service contracts between departments that provide services to County residents and departments that provide services as part of internal County government operations. Table 13 shows a breakdown of Executive Branch departments by function.

<sup>5</sup> Montgomery County Government Organizational Chart, available at <http://www.montgomerycountymd.gov/government/orgchart.html>.

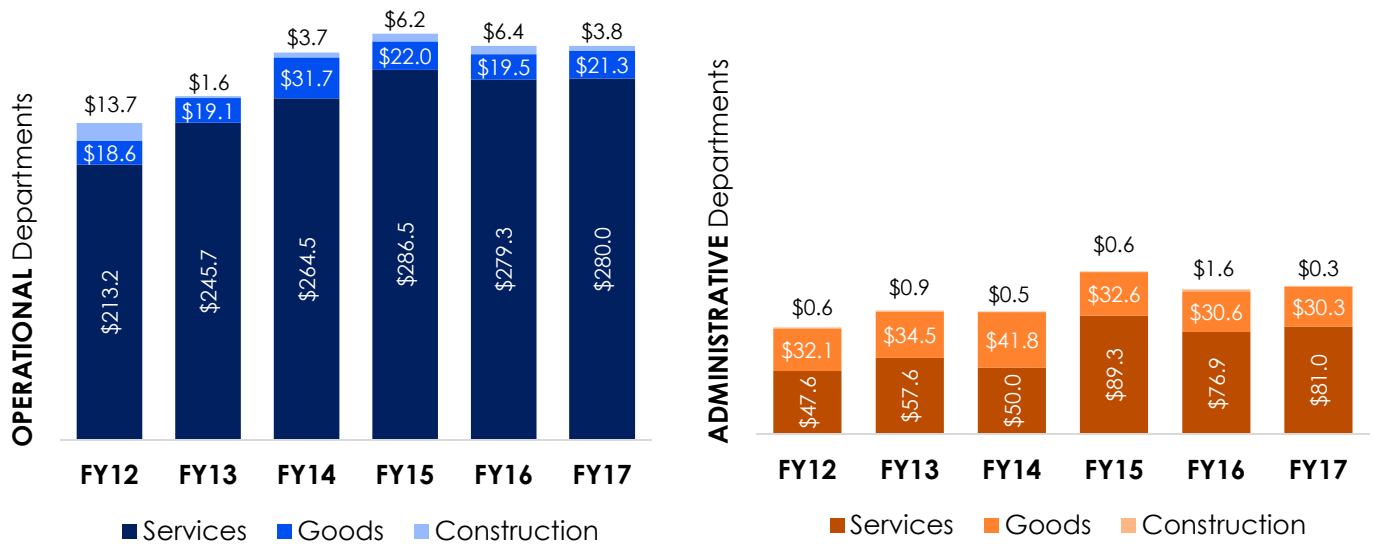
**Table 13. Executive Branch Departments by Function**

|                                       |   |   |
|---------------------------------------|---|---|
| <b>Administrative<br/>Departments</b> | • County Attorney's Office                  | • Office of Intergovernmental Relations |
|                                       | • Ethics Commission                         | • Office of Management and Budget       |
|                                       | • Department of Finance                     | • Office of Public Information          |
|                                       | • Department of General Services            | • Department of Technology Services     |
|                                       | • Office of Human Resources                 |   |
| <b>Operational<br/>Departments*</b>   | • Office of Agricultural Service            | • Office of Human Rights                |
|                                       | • Board of Investment Trustees              | • Department of Libraries               |
|                                       | • Community Engagement Cluster              | • Department of Liquor Control          |
|                                       | • Community Use of Public Facilities        | • Department of Permitting Services     |
|                                       | • Office of Consumer Protection             | • Office of Procurement                 |
|                                       | • Department of Correction & Rehabilitation | • Department of Police                  |
|                                       | • Department of Environmental Protection    | • Department of Recreation              |
|                                       | • Fire & Rescue Service                     | • Department of Transportation          |
|                                       | • Department of Housing & Community Affairs | • Department of Health & Human Services |
|                                       |   |   |
|                                       |   |   |

*\*Includes Regional Services Centers and the Commission for Women; excludes departments that do not fit into a functional category and legislative- and judicial-branch departments*

**County-wide Service Contracts.** OLO found that contractual dollars awarded by operating departments were significantly higher than that of administrative departments – for operating-related construction, goods, and services contracts. Operating departments also contracted for a higher percentage of services. These trends are shown in the next chart. In FY17, operating departments awarded a total of \$305.2 million in operating-related contracts, of which service contracts accounted for \$280.0 million or 92% of spending. Administrative departments by comparison awarded a total of \$111.5 million in operating-related contracts, of which service contracts accounted for \$81.0 million or 73% of spending. This pattern of spending was consistent from FY12 to FY17.

**Chart 2. Operational and Administrative Contractual Obligations from FY12 to FY17<sup>6</sup>**



Looking just at service contract dollars awarded across all County departments, the five most commonly-procured services accounted for 50.1% of all services procured in FY17. Contracts for professional services accounted for 30% (\$118M of the \$394.7M). Contracts for professional services include consulting services, transfer center operations, transit and parking operations, automatic traffic enforcement services, financial advisory services, occupational and wellness services, etc. The remaining top five services are: maintenance agreements (maintenance for fleet, other vehicles, building equipment, snow removal, etc.); recycling (materials recovery and processing; recycling center operations); facilities services/inventory (custodial services, landscaping, electrical repair, carpentry, painting, etc.) and trash hauling/removal (waste transportation and disposal). These data are summarized in the next chart.

<sup>6</sup> This chart does not include County departments that do not fall in a functional category, such as Non-Departmental Accounts, or legislative- and judicial-branch departments, which account for \$33.7M of the \$394.7M in service contracts.



**Chart 3. Top FY17 Services Contracted**

| <b>Services</b>               | <b>% of Services Contracts</b> |                 |
|-------------------------------|--------------------------------|-----------------|
| Professional Services         | 30.0%                          | \$118.5M        |
| Maintenance Agreements        | 6.4%                           | \$25.2M         |
| Recycling                     | 5.2%                           | \$20.4M         |
| Facilities Services/Inventory | 4.4%                           | \$17.4M         |
| Trash Hauling/Removal         | 4.1%                           | \$16.1M         |
| All Other Services            | 49.9%                          | \$197.0M        |
| <b>TOTAL</b>                  | <b>100.0%</b>                  | <b>\$394.7M</b> |

**C. Department Service Contract Trends**

This section looks closer at the top 13 departments that awarded the most service contract dollars in FY17, including individual summaries for each department reviewed by OLO.

In reviewing procurement activity across Executive Branch departments, OLO found that department service contract trends mirror County-wide trends, with operational departments awarding the most on service contracts. Twelve departments out of 37<sup>7</sup> comprise 89% of all County awards on contract services (\$352.8M out of \$394.7M) – four are administrative and eight are operational. OLO also reviewed service contract spending for Non-Departmental Accounts (\$26.0M), which includes awards for County-wide Services and cannot be categorized by function. These 12 departments plus Non-Departmental Accounts account for 96% (\$378.9M) of all contractual services in FY17. Table 14 summarizes awards for service contracts in FY17.

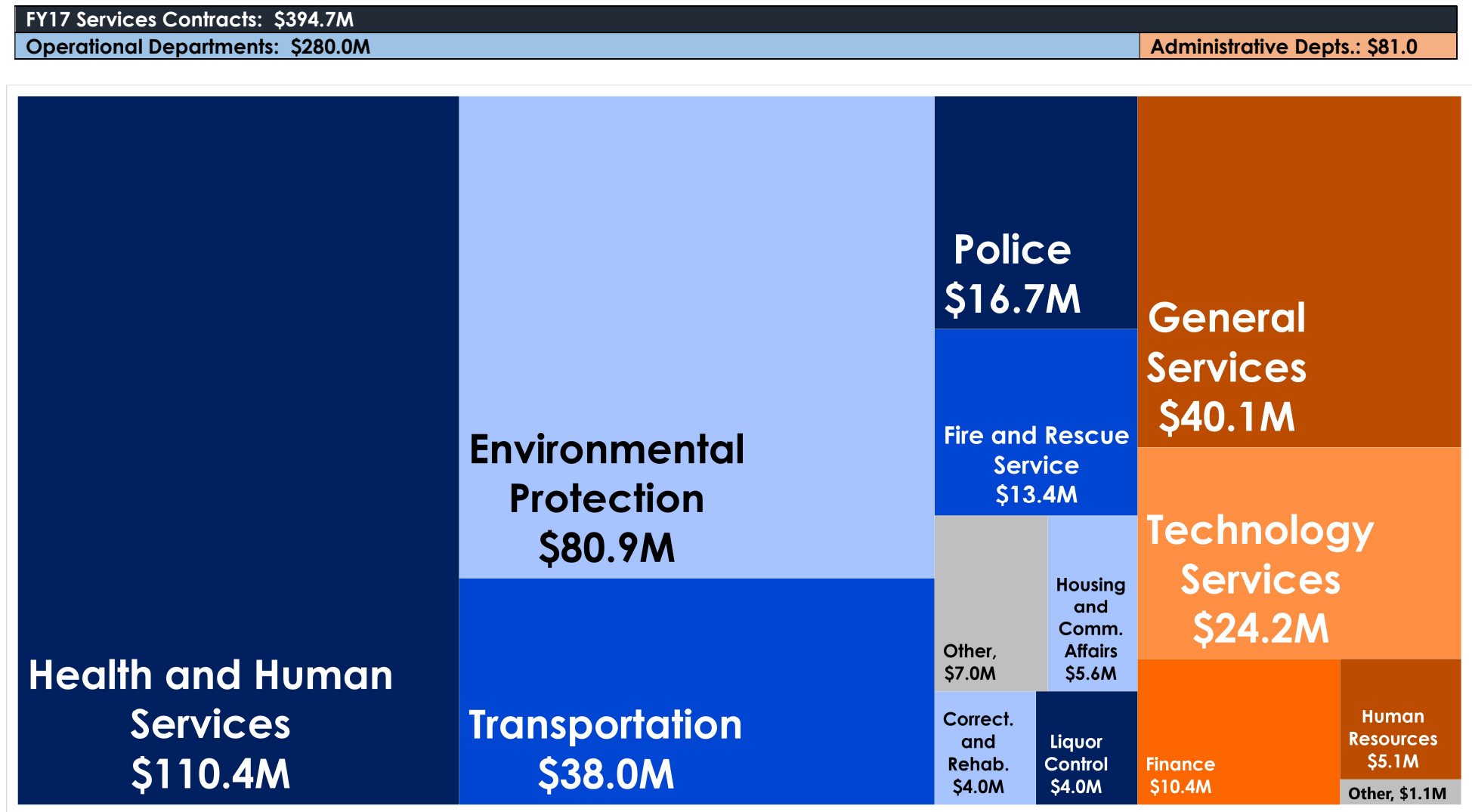
<sup>7</sup> There are 37 departments listed in the purchase order details report from the County's Enterprise Business Intelligence Reporting Purchasing Dashboard.

**Table 14. Service Contract Awards by Department in FY17**  
(\$ in millions)

| Department                    | Function       | Amount          |
|-------------------------------|----------------|-----------------|
| Health and Human Services     | Operational    | \$110.4M        |
| Environmental Protection      | Operational    | \$80.9M         |
| General Services              | Administrative | \$40.1M         |
| Transportation                | Operational    | \$38.0M         |
| Non-Departmental Accounts     | --             | \$26.0M         |
| Technology Services           | Administrative | \$24.2M         |
| Police                        | Operational    | \$16.7M         |
| Fire and Rescue Service       | Operational    | \$13.4M         |
| Finance                       | Administrative | \$10.4M         |
| Housing and Community Affairs | Operational    | \$5.6M          |
| Human Resources               | Administrative | \$5.1M          |
| Correction and Rehabilitation | Administrative | \$4.0M          |
| Liquor Control                | Administrative | \$4.0M          |
| All Other Departments         | --             | \$15.8M         |
| <b>TOTAL</b>                  |                | <b>\$394.7M</b> |

Diagram 1, on the following page, visually depicts the differences in magnitude of dollars awarded for professional and non-professional services across departments. The data show that the Department of Health and Human Services awarded the most for service contracts of all operational departments, comprising 40% of the \$280.0 million awarded by operational departments. By comparison, the Department of General Services awarded the most for service contracts of all administrative departments, comprising nearly 50% of the \$81.0 million awarded by administrative departments.

Diagram 1. Top- Operational and Administrative Departments by FY17 Contractual Services Awards



This diagram does not include \$33.7M for departments that are not Operational or Administrative. These are departments that do not fall in a functional category, such as Non-Departmental Accounts (\$26.0M), or departments that belong to the legislative and judicial branch.

Table 15 summarizes the service contract dollars awarded as a percentage of each department's FY17 operating budget. The Department of Environmental Protection (DEP) had the highest percent of contract dollars awarded to their approved operating budget at 67.3% (\$80.9M in services compared to an approved operating budget of \$120.2M). DEP relies on service contracts for transfer center operations, recycling, trash hauling or removal, and stormwater maintenance. Conversely, the Office of Human Resources (OHR) comprised the least percentage of service contract dollars awarded to their approved budget at 2.0% (\$5.1M in services compared to an approved operating budget of \$254.1M). This is because most of OHR's approved operating budget is dedicated for non-service contract expenditures - claims and administration payments to the County's insurance providers.

**Table 15. FY17 Department Service Contract Awards as a Percent of Operating Budget  
(\$ in millions)**

| Department                    | Awarded Service Contracts | FY17 Approved Budget | % of FY17 Operating Budget |
|-------------------------------|---------------------------|----------------------|----------------------------|
| Environmental Protection      | \$80.9                    | \$120.2              | 67.3%                      |
| Technology Services           | \$24.2                    | \$57.3               | 42.3%                      |
| Health and Human Services     | \$110.4                   | \$299.0              | 36.9%                      |
| General Services              | \$40.1                    | \$117.3              | 34.2%                      |
| Transportation                | \$38.0                    | \$210.0              | 18.1%                      |
| Finance                       | \$10.4                    | \$77.8               | 13.4%                      |
| Housing and Community Affairs | \$5.6                     | \$48.7               | 11.4%                      |
| Non-Departmental Accounts     | \$26.0                    | \$318.1              | 8.2%                       |
| Liquor Control                | \$4.0                     | \$63.1               | 6.4%                       |
| Police                        | \$16.7                    | \$265.1              | 6.3%                       |
| Fire and Rescue Service       | \$13.4                    | \$215.9              | 6.2%                       |
| Correction and Rehabilitation | \$4.0                     | \$66.8               | 6.1%                       |
| Human Resources               | \$5.1                     | \$254.1              | 2.0%                       |

Table 16, on the following page, compares percent change in the top 13 departments' operating budget to the percent change for service contract dollars awarded from FY12 to FY17. Ten departments reviewed showed increased dollars awarded for services contracts, even though their operating budgets did not increase at the same level. This *may* infer that these departments relied more on service contracts from FY12 to FY17, outpacing their respective budget increases. Of note, Montgomery County Fire and Rescue Service's 940.1% increase in service contracts was due to a one-time self-contained breathing apparatus award in FY17. For three departments, service contract dollars awarded did not increase at a greater rate than their approved budgets:

- The Department of Environmental Protection's services decreased almost at the same pace as its budget, due to decreases in contract dollars awarded from FY16 to FY17.
- The Department of Housing and Community Affairs' (DHCA) service contract dollars awarded steadily increased by \$2.1M from FY12 to FY17, but the approved operating budget increased more – by \$22.8M, mostly due to increased funding the Montgomery Housing Initiative.

- The Department of Liquor Control’s service contract dollars awarded increased by \$1.0M from FY12 to FY17, but their budget increased by \$16.2M due to increased revenues and expenditures.

**Table 16. Top Departments’ Budget and Services Contract Percent Changes  
From FY12 to FY17**

| <b>Department</b>             | <b>Budget<br/>Percent<br/>Change</b> | <b>Services<br/>Contract \$<br/>Percent<br/>Change</b> |
|-------------------------------|--------------------------------------|--|
| Health and Human Services     | 23.5%                                | 41.6%  |
| Environmental Protection      | -3.4%                                | -2.9%  |
| General Services              | 29.4%                                | 61.7%  |
| Transportation                | 20.2%                                | 66.3%  |
| Non-Departmental Accounts     | 49.9%                                | 97.5%  |
| Technology Services           | 51.1%                                | 99.3%  |
| Police                        | 14.1%                                | 19.8%  |
| Fire and Rescue Service       | 20.0%                                | 940.1%   |
| Finance                       | 31.9%                                | 69.2%  |
| Housing and Community Affairs | 88.3%                                | 60.9%  |
| Human Resources               | 28.6%                                | 32.8%  |
| Correction and Rehabilitation | 9.0%                                 | 55.7%  |
| Liquor Control                | 34.4%                                | 33.5%  |

## 1. Methodology and OLO Summary Observations

OLO reviewed service contract dollars awarded for professional and non-professional services for the top 13 Executive Branch departments, including Non-Departmental Accounts, that awarded the most for service contracts in FY17. For each department reviewed, OLO used the Purchase Order Details report from the County’s Enterprise Business Intelligence Reporting Purchasing Dashboard, interviewed department representatives, researched the Montgomery County approved operating budgets from FY12 to FY17<sup>8</sup>, and reviewed contracts from the Office of Procurement.

The data show that County-wide, professional services was the top contracted service. Among the 13 departments that spend the most on contracting, however, professional services were the top contracted service type for only five of the departments – which each awarded \$16 million or more in contracts for professional services. The five departments were Health and Human Services (HHS), Department of Environmental Protection (DEP), Non-Departmental Accounts, Department of Technology Services (DTS), and the Montgomery County Police Department (MCPD).

## 2. Department Summaries

The following pages provide a 2-page summary for each of the top 13 departments with the highest contract obligations for professional and non-professional services in FY17 (combined as “services”), beginning with the department with the highest amount awards - HHS. Each department summary provides background on the department, including its mission; service contract dollar award trends from FY12-FY17; the types of services procured; and details on the types of vendors. The source for all graphics in the following summaries is OLO’s analysis of the data in the County’s Enterprise Business Intelligence Reporting Purchasing Dashboard and approved operating budget.

The next page shows a guide to the information in each department summary.

| <b>Department Summary.....Page</b> | <b>Department Summary..... Page</b>     |
|------------------------------------|---|
| Health & Human Services ..... 40   | Fire & Rescue Service ..... 54          |
| Environmental Protection ..... 42  | Finance ..... 56                        |
| General Services ..... 44          | Housing & Community Affairs..... 58     |
| Transportation..... 46             | Human Resources..... 60                 |
| Non-Departmental Accounts ..... 48 | Corrections and Rehabilitation ..... 62 |
| Technology Services ..... 50       | Liquor Control ..... 64                 |
| Police ..... 52                    |   |

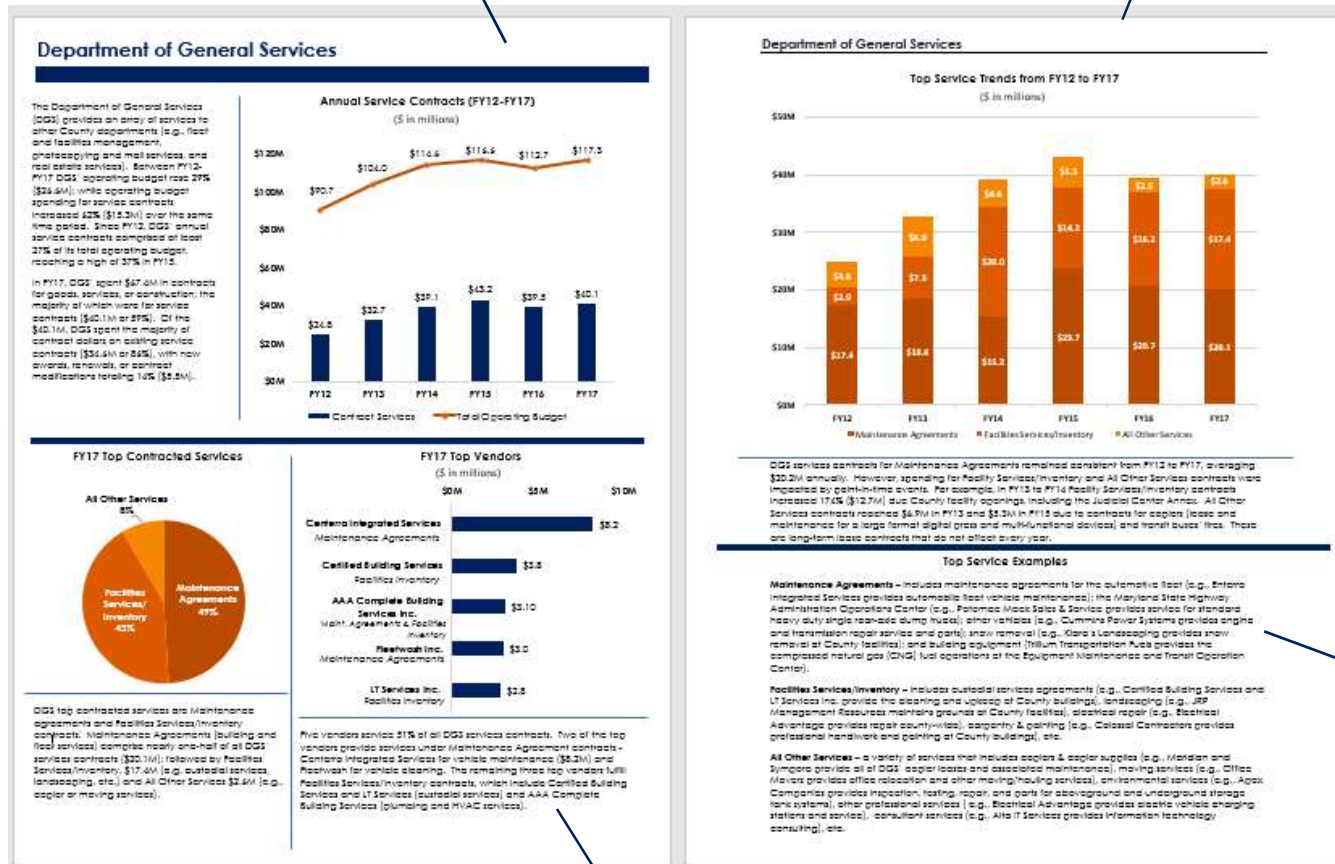
<sup>8</sup> The FY12-FY17 Approved Operating Budgets are located at:  
<http://www.montgomerycountymd.gov/omb/publications.html>

## Guide to Information in Department Summaries

Brief department overview; including high-level comparison of contract award trends from FY12-FY17.

Annual service contract dollars awarded compared to the approved operating budget from FY12 to FY17.

Trends in dollars awarded for services from FY12 to FY17, including a brief analysis on top service trends during that period.



The top FY17 contracted services by percentage.

The top five FY17 vendors by dollar amount and the services they provided, including the percentage of department contract dollars awarded to the vendors.

More detailed examples for the top services.

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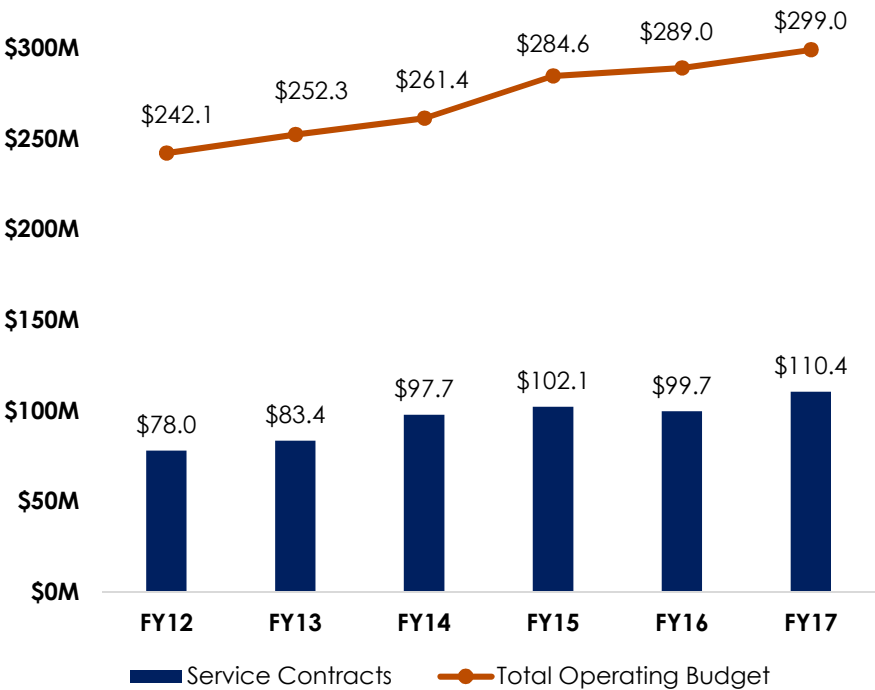


# Health & Human Services

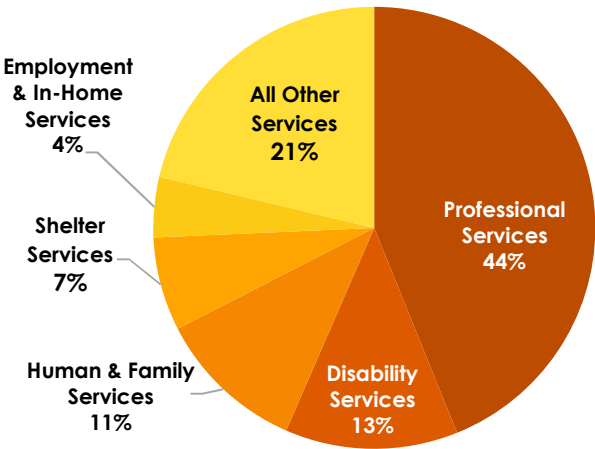
Health and Human Services (HHS) provides public health and human services to help address the needs of at-risk and vulnerable children, adults, and seniors (e.g., behavioral health, food, shelter, etc.). Between FY12-FY17 HHS' operating budget rose 24% (\$57.0M), while operating budget awards for service contracts increased 42% (\$32.5M) over the same period. Since FY12, HHS' annual service contracts comprised at least 32% of its total operating budget, reaching a high of 37% in FY14 and FY17.

In FY17, HHS awarded \$111.9M in contracts for goods and services; the majority of which were for service contracts (\$110.4M or 99%). Of the \$110.4M, HHS awarded the majority of contract dollars for existing service contracts and renewals (\$78.3M or 71%), with new awards, administrative orders, or contract modifications totaling 29% (\$32.1M).

Annual Service Contracts (FY12-FY17)  
(\$ in millions)

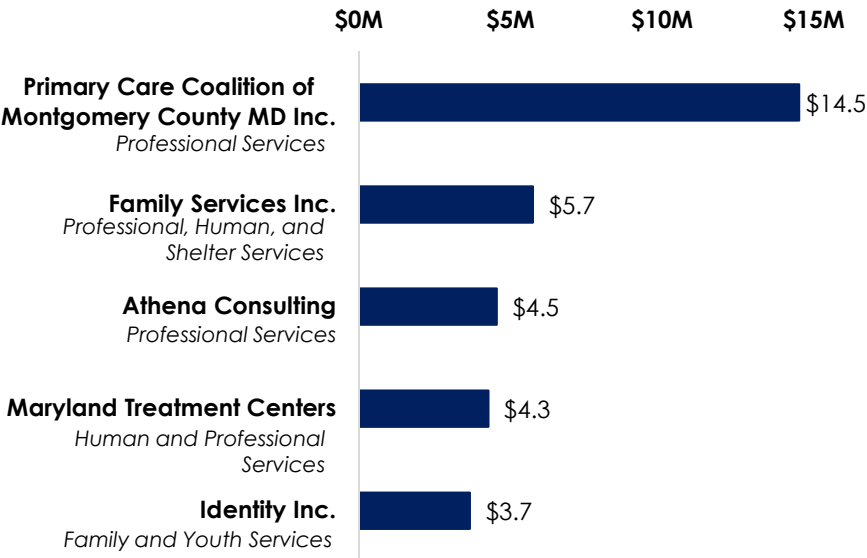


FY17 Top Contracted Services



HHS' top contracted services are for professional services, \$48.5M, (e.g., health and consulting services); followed by disability services, \$14.0M, (e.g., residential and support services); human and family services, \$12.1M, (e.g., substance abuse prevention); shelter services, \$7.6M, (e.g., emergency shelter services); and employment and in-home services, \$4.9M, (e.g., training for childcare providers). All other services (\$23.4M) includes information system services, homeless case management, residential mental health, etc.

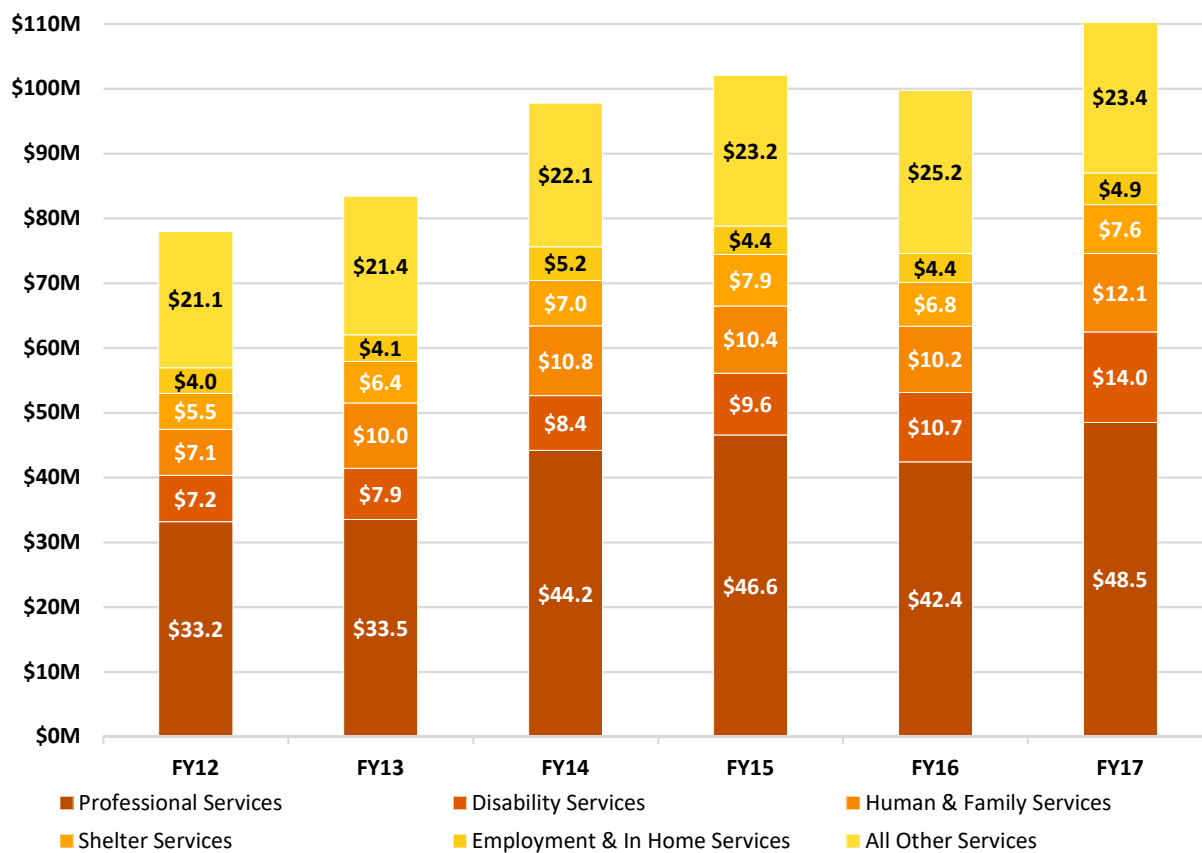
FY17 Top Vendors  
(\$ in millions)



Five vendors service 30% of all HHS services contracts. The four top vendors – Primary Care Coalition, Family Services, Athena, and Maryland Treatment Centers – provide professional services, with Family Services and Maryland Treatment centers also providing human and shelter services. Identity, the fifth largest vendor in contract dollars awarded, provides family and youth services.

## Top Service Trends from FY12 to FY17

(\$ in millions)



Disability services and human and family services saw the largest percentage increases for service contracts from FY12-FY17, increasing 95% (\$6.8M) and 70% (\$5.0M), respectively. Professional services contracts increased by \$15.3M or 46% from FY12 to FY17. This change is mostly due to the increase in the professional purchase of service (e.g., health care services), a subset of professional services, from \$24.2M in FY14 to \$34.5M in FY17 - a rise of \$10.3M or 43%. The remaining services showed smaller increases, between \$0.9M to \$2.5M from FY12 to FY17.

## Top Service Examples

**Professional Services** – includes professional purchase of service (e.g., Primary Care Coalition's health care services for uninsured adults); other professional services (e.g., Family Services' Linkages to Learning program services); consultant services (e.g., Montgomery County Collation Council for Children, Youth, and Families' care coordination and wrap-around services to children and youth with emotional disabilities); and management consulting (e.g., Array Information Technology's IT consulting and technical services).

**Disability Services** – includes respite care, emergency and critical services, senior services, and residential and support services (e.g., Community Support Services promotes normalization of persons with developmental disabilities).

**Human and Family Services** – includes *human services* such as cancer and tobacco use prevention, treatment services administration, substance abuse prevention, child and adolescent mental healthcare coordination, and behavioral health planning and management; and *family services* such as adult protective and case management services, educational support, early childhood services, and positive youth development.

**Shelter Services** – includes adult shelter services (e.g., Montgomery County Coalition for the Homeless' emergency shelter for the homeless); shelter services (e.g., Family Services' emergency shelter services at the Betty Anne Krahne Center); and family shelter services (e.g., Stepping Stones Shelter's emergency family shelter service).

**Employment & In-Home Services** – includes *employment services* such as training and scholarship funding/classes for childcare providers (e.g., Arbor E&T's employment and support services for recipients of public assistance and youth in foster care); and *in-home services* (e.g., Specialty Care Services' social work case management services to assist aging or disabled adults to remain in their homes).

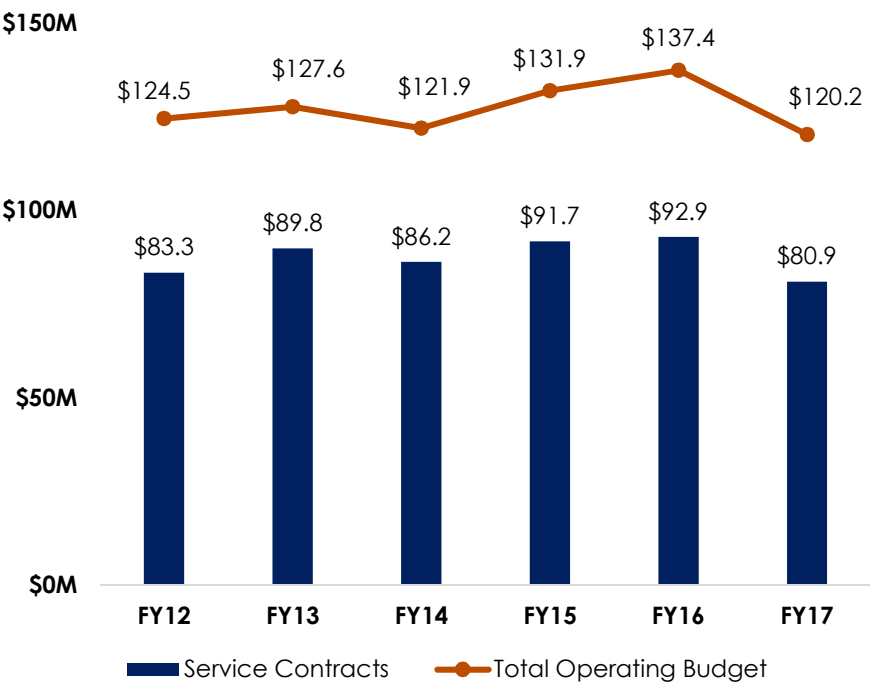
**All Other Services** – includes youth services, information system services, dental services, temporary office clerical, laboratory services, after school care services, translation services, public assistance, etc.

# Environmental Protection

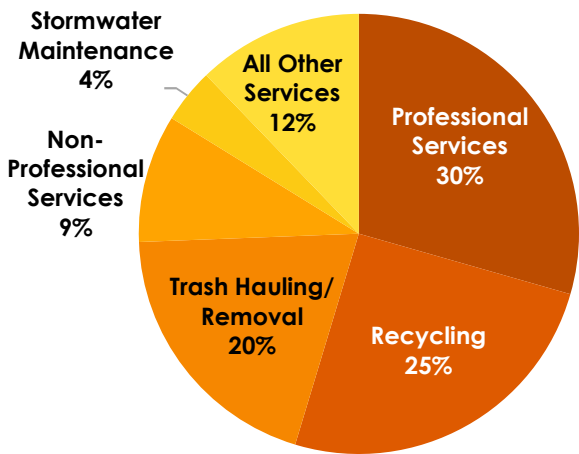
The Department of Environmental Protection's (DEP) mission is to enhance the quality of life by protecting and improving the County's air, water, and land in a sustainable way while fostering smart growth, a thriving economy, and healthy communities. Between FY12-FY17 DEP's operating budget decreased 4% (\$4.3M) and awards for service contracts also decreased by 3% (\$2.4M) over the same period. Since FY12, DEP's annual service contracts comprised at least 67% of its total operating budget, reaching a high of 71% in FY14.

In FY17, DEP awarded \$82.9M in contracts for goods, services, and construction; the majority of which were for service contracts (\$80.9M or 98%). Of the \$80.9M, DEP awarded the majority of contract dollars on existing service contracts (\$76.8M or 95%) and the remaining on new awards (\$4.2M or 5%).

Annual Service Contracts (FY12-FY17)  
(\$ in millions)

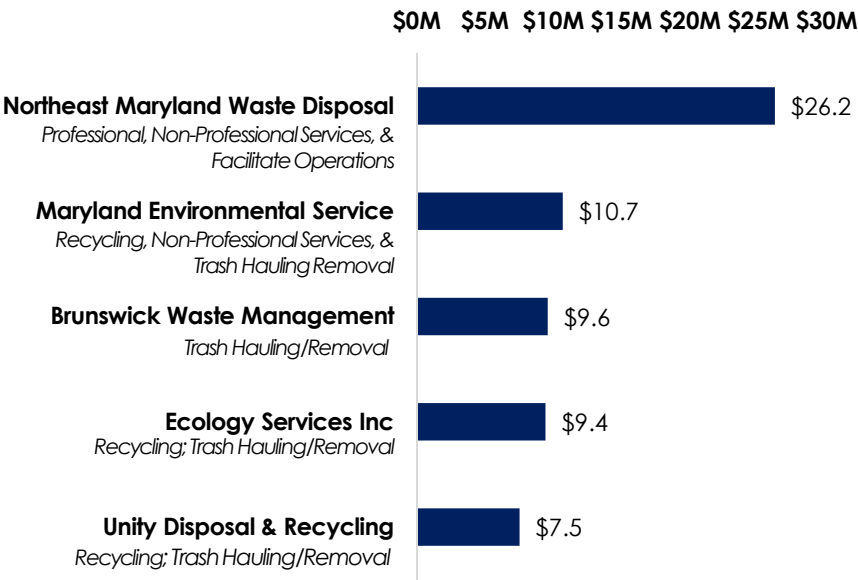


FY17 Top Contracted Services



DEP's top contracted services are for professional services, \$23.8M, (e.g., transfer station operations); followed by recycling, \$20.4M, (e.g., materials recovery and processing); trash hauling/removal \$16.0M, (e.g., waste transportation and disposal); non-professional services, \$7.6M, (e.g., yard trim composting operations and transfer station operations); stormwater maintenance, \$3.2M, (e.g., above and below ground maintenance). All other services (\$9.9M) includes engineering & architectural services, hazardous waste handling, tree planting, etc.

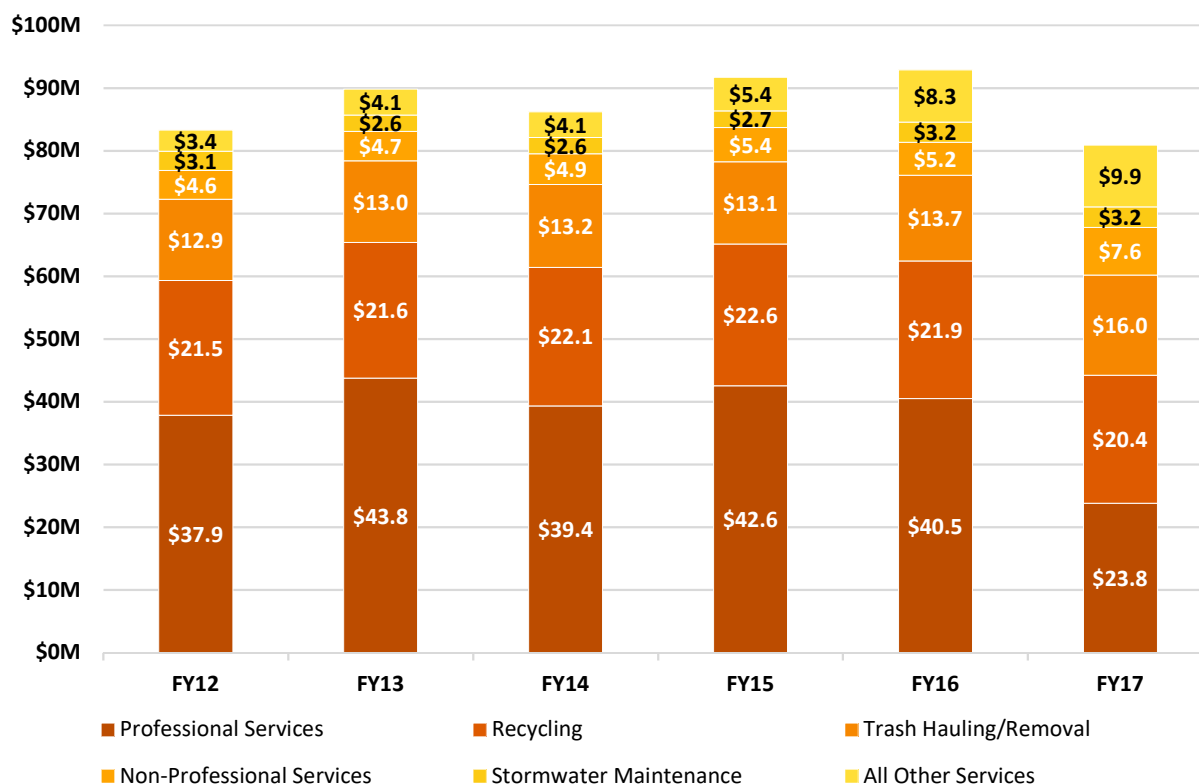
FY17 Top Vendors  
(\$ in millions)



Five vendors service 78% of all DEP services contracts and all provided trash hauling/removal. Northeast Maryland Waste Disposal was the top vendor, providing professional, non-professional services, and facilitate operations at the Resource Recovery Facility. Maryland Environmental Service provided non-professional/facility operations services and ecology services, and Unity Disposal & Recycling provided residential recycling and refuse collection services. Brunswick Waste Management only provided trash hauling/removal.

## Top Service Trends from FY12 to FY17

(\$ in millions)



DEP's contract awards decreased by \$2.4M or 3% from FY12-17 due to a 31% decrease (\$14.3M) in professional and non-professional Services contracts from FY16 to FY17. Recycling services and stormwater maintenance remained consistent from FY12-17, ranging from \$20.4M to \$22.6M and \$2.6M to \$3.2M, respectively. Trash hauling/removal reached a high of \$16.0M in FY17 due to equipment replacement and an increase in the amount of hauled material transported out of the County. All other services increased \$6.5M or 193% from FY12-17 due to increases in hazardous waste handling, professional computer services, tree planting, evaluation services, grounds maintenance, and elevator addition work (recycling center).

## Top Service Examples

**Professional** – includes other professional services (e.g., Northeast Maryland Waste Disposal's Transfer Station operation); and professional purchase of service (e.g., Versar Inc.'s water monitoring service).

**Recycling** – includes the residential recycling collection program, technical assistance and outreach, and recycling center operations (e.g., Ecology Services Inc.'s collection services and Maryland Environmental Service's operations for processing at the Materials Recovery Facility).

**Trash Hauling/Removal** – includes residential refuse collection program, out-of-county hauling, and transfer of waste from the Transfer Station to the Resource Recovery Facility.

**Non-Professional Services** – includes skilled, non-professional services (e.g., Maryland Environmental's operation of the yard trim composting facility).

**Stormwater Maintenance** – includes below ground maintenance (e.g., Magnolia Plumbing's routine maintenance, cleaning, and repair of underground stormwater management facilities) and above ground maintenance (e.g., Environmental Quality Resources' maintenance and repair of aboveground stormwater management facilities).

**All Other Services** – includes engineering and architectural services, hazardous waste handling, professional computer services, tree planting, evaluation services, arterial road sweeping, grounds maintenance, etc.

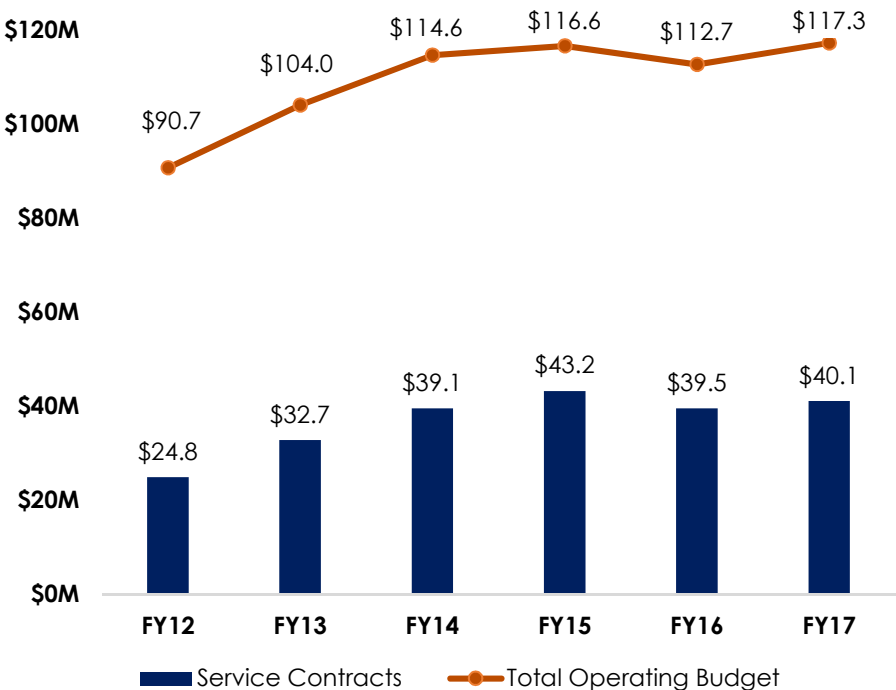
# Department of General Services

The Department of General Services (DGS) provides an array of services to other County departments (e.g., fleet and facilities management, photocopying and mail services, and real estate services). Between FY12-FY17 DGS' operating budget rose 29% (\$26.6M); while awards for service contracts increased 62% (\$15.3M). Since FY12, DGS' annual service contracts comprised at least 27% of its total operating budget, reaching a high of 37% in FY15.

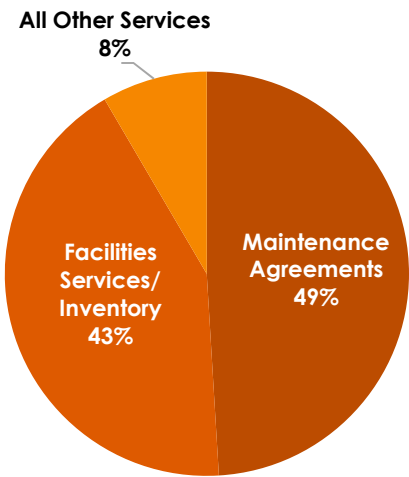
In FY17, DGS' awarded \$67.4M in contracts for goods, services, or construction; the majority of which were for service contracts (\$40.1M or 59%). Of the \$40.1M, DGS awarded the majority of contract dollars on existing service contracts (\$34.6M or 86%), with new awards, renewals, or contract modifications totaling 14% (\$5.5M).

Annual Service Contracts (FY12-FY17)

(\$ in millions)



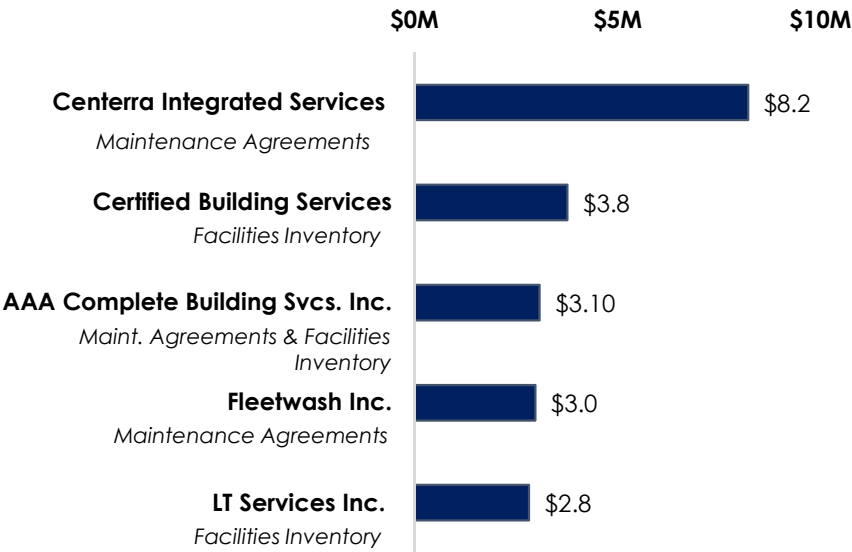
FY17 Top Contracted Services



DGS top contracted services are maintenance agreements and facilities services/inventory contracts. Maintenance agreements (building and fleet services) comprise nearly one-half of all DGS' services contracts (\$20.1M); followed by facilities services/inventory, \$17.4M (e.g. custodial services, landscaping, etc.) and all other services \$2.6M (e.g., copier or moving services).

FY17 Top Vendors

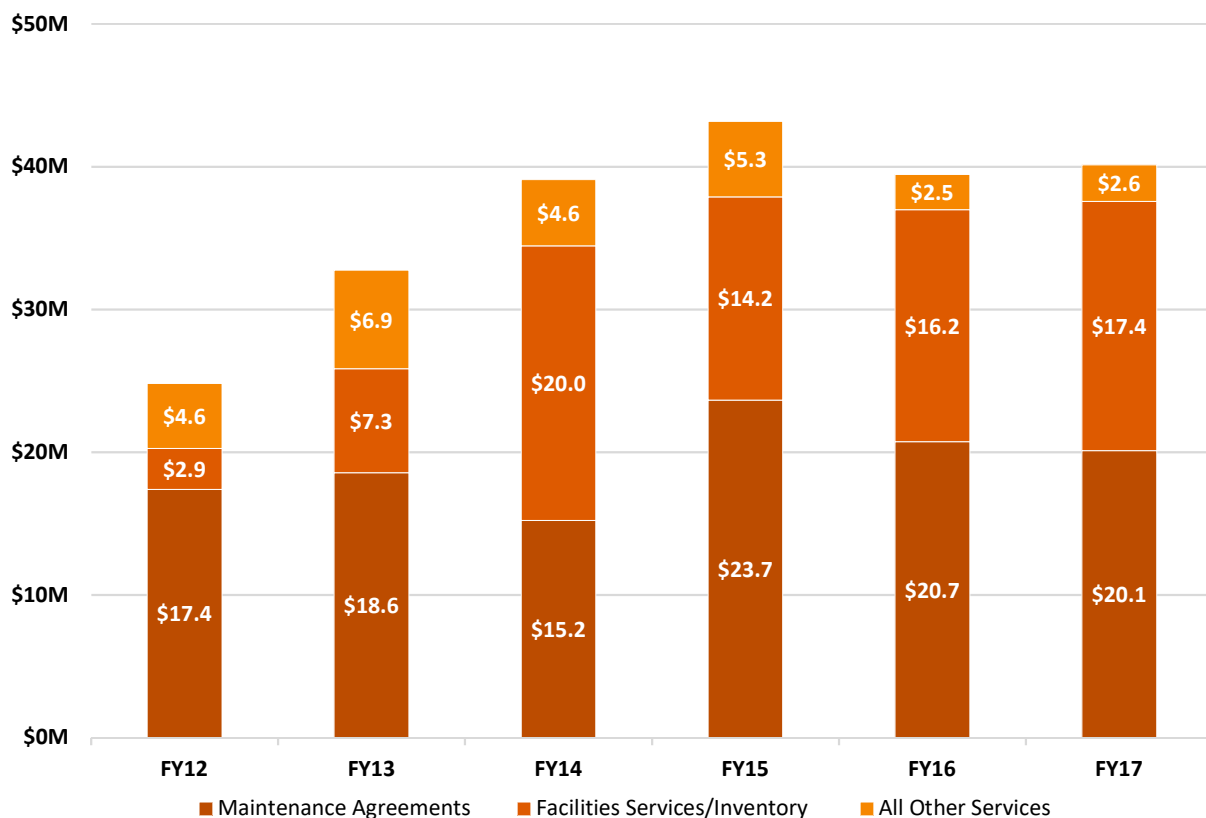
(\$ in millions)



Five vendors service 51% of all DGS services contracts. Two of the top vendors provide services under maintenance agreement contracts - Centerra Integrated Services for vehicle maintenance (\$8.2M) and Fleetwash for vehicle cleaning. The remaining three top vendors fulfill facilities services/inventory contracts, which include Certified Building Services and LT Services (custodial services) and AAA Complete Building Services (plumbing and HVAC services).

## Top Service Trends from FY12 to FY17

(\$ in millions)



DGS services contracts for maintenance agreements remained consistent from FY12 to FY17, averaging \$20.2M annually. However, awards for facility services/inventory and all other services contracts were impacted by point-in-time events. For example, in FY13 to FY14 facility services/inventory contracts increased 174% (\$12.7M) due to a change in the purchase order process in DGS's Work Order system. The increase was also due to snow removal services, which were \$3.7M higher in FY14 than FY13. All other services contracts reached \$6.9M in FY13 and \$5.3M in FY15 due to contracts for copiers (lease and maintenance for a large format digital press and multi-functional devices) and for the buyout of leased tires and the switch to purchase tires under a new contract/vendor.

## Top Service Examples

**Maintenance Agreements** – includes maintenance agreements for the automotive fleet (e.g., Centerra Integrated Services' automobile fleet vehicle maintenance); other vehicles (e.g., Cummins Power Systems' engine and transmission repair service and parts); snow removal (e.g., Kiara's Landscaping's snow removal at County facilities); and building equipment (Trillium Transportation Fuels' provision of compressed natural gas (CNG) fuel operations at the Equipment Maintenance and Transit Operation Center).

**Facilities Services/Inventory** – includes custodial services agreements (e.g., Certified Building Services and LT Services Inc.'s cleaning and upkeep at County buildings), landscaping (e.g., JRP Management Resources' maintenance of grounds at County facilities), electrical repair (e.g., Electrical Advantage's repair services), carpentry & painting (e.g., EARN Contractors, Inc.'s and SFMS' professional handiwork and painting at County buildings), etc.

**All Other Services** – includes a variety of services such as copiers & copier supplies (e.g., Meridian and Sympora's provision of all DGS' copier leases and associated maintenance), moving services (e.g., JK Movers' office relocation and other moving/hauling services), environmental services (e.g., Apex Companies' inspection, testing, repair, and parts for aboveground and underground storage tank systems), other professional services (e.g., Electrical Advantage's electric vehicle charging stations and service), consultant services (e.g., Alta IT Services' information technology consulting), etc.

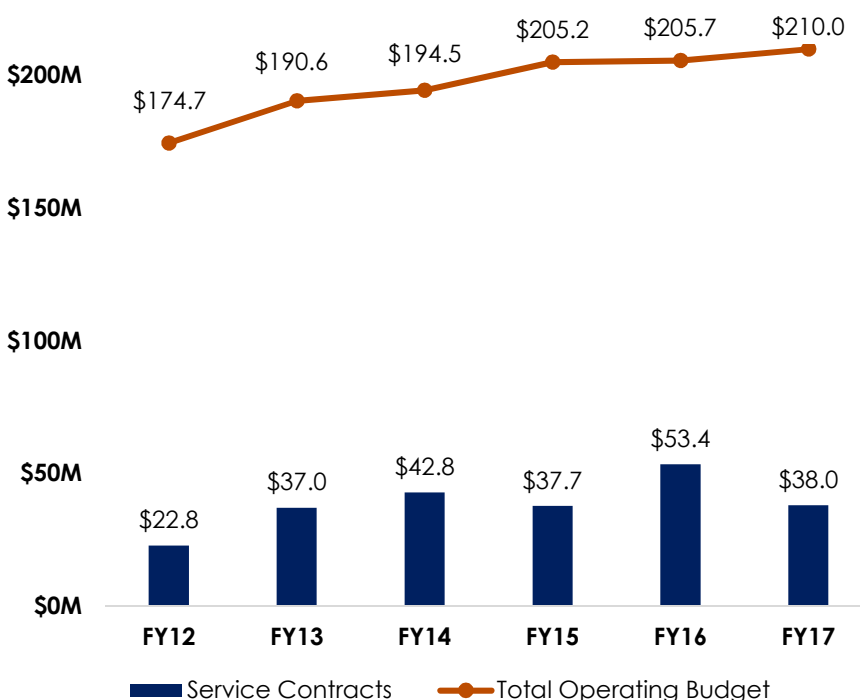
# Transportation

The Montgomery County Department of Transportation (MCDOT) builds and maintains the County's transportation infrastructure; improves pedestrian, bicyclist and vehicle safety; and provides transit and alternative transportation services. Between FY12-FY17 MCDOT's operating budget increased 20% (\$35.4M) and awards for service contracts increased by 66% (\$15.1M). Since FY12, MCDOT's annual service contracts comprised at least 13% of its total operating budget, reaching a high of 26% in FY16.

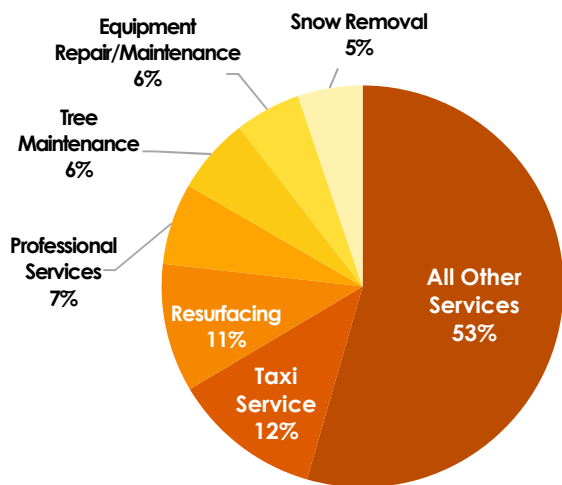
In FY17, MCDOT awarded \$44.6M in contracts for goods, services, and construction; the majority of which were for service contracts (\$38.0M or 85%). Of the \$38.0M, MCDOT awarded the majority of contract dollars for existing service contracts, modifications, and renewals (\$36.2M or 95%) and the remaining on new awards (\$1.8M or 5%).

## Annual Service Contracts (FY12-FY17)

(\$ in millions)



## FY17 Top Contracted Services



MCDOT's contracted services are distributed broadly, with all other services accounting for \$20.1M of total contract awards (e.g., cashier/garage management, security, parking enforcement, and leafing). MCDOT's top individual service contract categories are for taxi service, \$4.7M, (e.g., Medicaid transportation services); followed by resurfacing, \$4.0M, (e.g., application of slurry seal, crack sealant, and hot mix asphalt); professional services, \$2.6M, (e.g., transit and parking operations); tree maintenance, \$2.4M; equipment repair/maintenance, \$2.1M, (e.g., bikeshare maintenance); and snow removal, \$2.0M.

## FY17 Top Vendors

(\$ in millions)

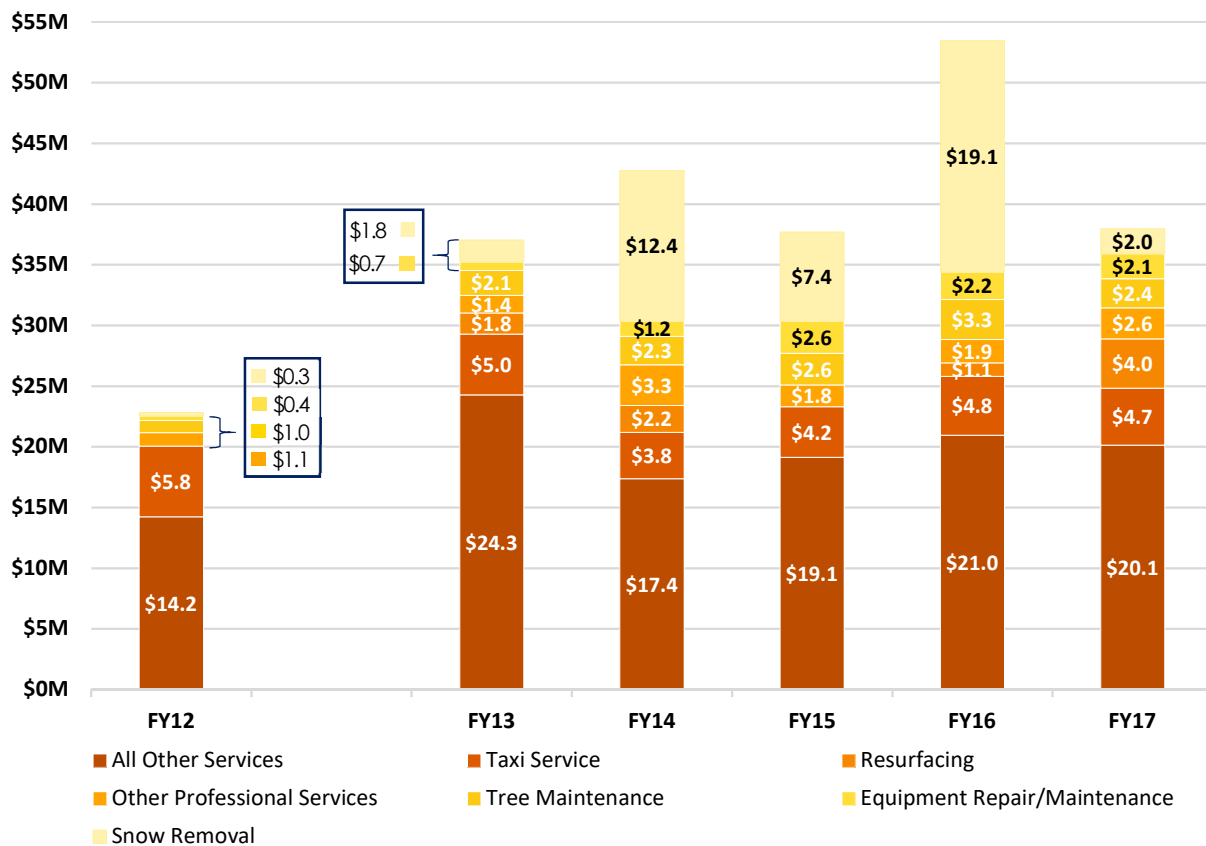


The five top vendors service 28% of all MCDOT services contracts. Fort Myer Construction Corporation was the top vendor, providing resurfacing services. The remaining four vendors were all near \$2.0M: Serco (parking enforcement & meter revenue collection), Earn Contractors (provided seasonal labor to assist: leafing, mowing, snow services, and patching), Asplundh (tree maintenance), and Penn Parking (cashier/garage management).



## Top Service Trends from FY12 to FY17

(\$ in millions)



MCDOT's total contract awards were dictated by yearly snow accumulation, with highest totals in FY14 and FY16 when contract awards for snow removal totaled \$12.4M and \$19.1M, respectively. Three other contract award categories increased from FY12 to FY17: resurfacing, (\$0 in FY12 to \$4.0M in FY17); equipment repair/maintenance (\$0.2M in FY12 to \$2.1M in FY17); and all other services (\$14.2M in FY12 to \$20.1M in FY17).

## Top Service Examples

**Taxi Service** – includes the Call-n-Ride subsidized taxi service program for low-income seniors and persons with disabilities (e.g., Barwood's and Regency Cab's Medicaid transportation services).

**Resurfacing** – includes the resurfacing and patching of County roads (e.g., Fort Myers Construction Corporation's application of slurry seal, crack sealant, and hot mix asphalt on primary and residential roadways).

**Professional Services** – includes parking operations, transit operations, and highway administration/management (e.g., IPS Group Inc's solar-powered single space credit card enable meters for parking operations).

**Tree Maintenance** – provides various tree maintenance tree removal services on trees located on the public right-of-way and within the political boundaries of the County.

**Equipment Repair/Maintenance** – includes equipment repair and maintenance for Bikeshare and parking operations (e.g., Motivate International Inc.'s maintenance for Bikeshare).

**Snow Removal** – includes the road equipment and service for snow removal of roads and sidewalks.

**All Other Services** – includes cashier/garage management, security, parking enforcement, leafing, janitorial maintenance, stump removal, engineering and architectural services, ticket collection, bus shelter services, etc.

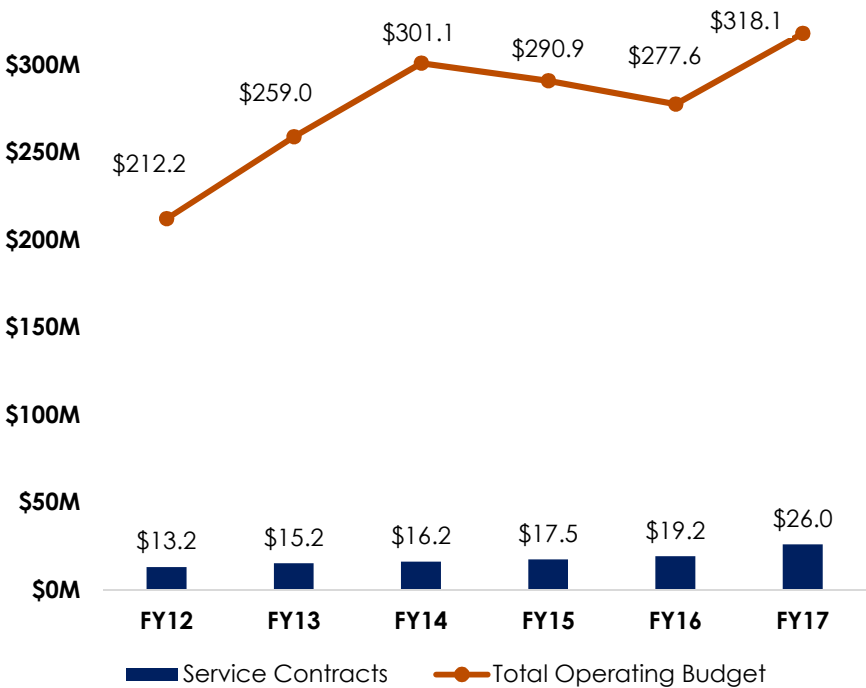


# Non-Departmental Accounts

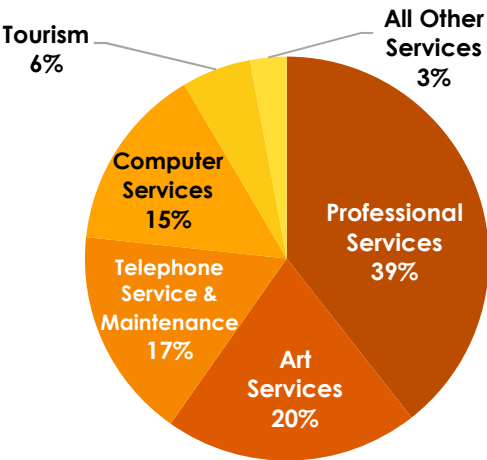
Non-Departmental Accounts (NDAs) contain expenditure items essential to the operation of the County government that either do not fall within the functional assignment of any department, or provide for expenditures related to more than one department. Between FY12-FY17 NDAs' operating budget increased 50% (\$106.0M) and awards for service contracts increased by 98% (\$12.8M) over the same period. Since FY12, NDAs' annual service contracts comprised at least 5% of its total operating budget, reaching a high of 8% in FY17.

In FY17, NDAs awarded \$26.4M in contracts for goods, services, and construction; the majority of which were for service contracts (\$26.0M or 98%). Of the \$26.0M, NDAs awarded the majority of contract dollars for existing service contracts (\$21.5M or 83%) and the remaining on new awards (\$4.5M or 17%).

Annual Service Contracts (FY12-FY17)  
(\$ in millions)

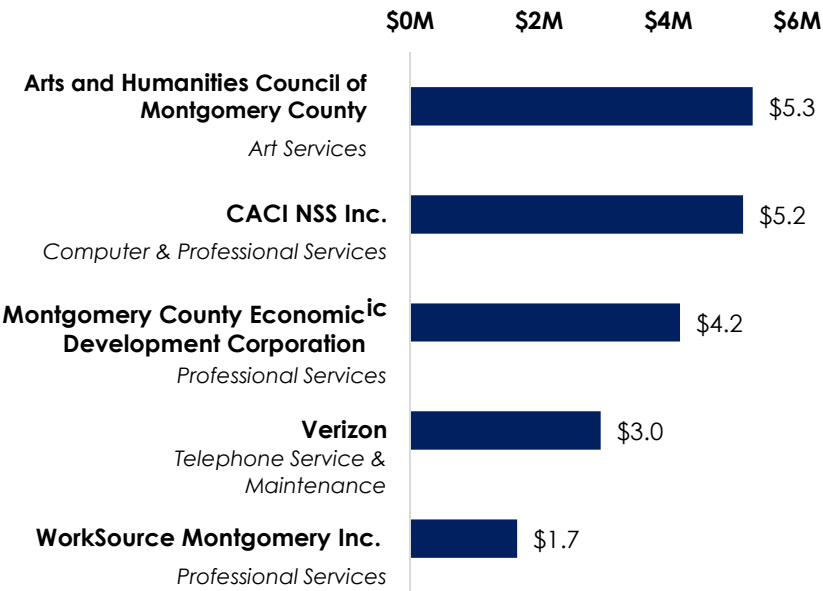


FY17 Top Contracted Services



NDAs' top contracted services are for professional services, \$10.3M, (e.g., Montgomery County Economic Development Corporation); followed by art services, \$5.3M, (e.g., Arts and Humanities Council); telephone service & maintenance, \$4.4M; computer services, \$3.9M, (e.g., computer replacement and support); and tourism, \$2.1M, (e.g., promote the County through the Conference and Visitors Bureau). All other services (\$0.7M) includes building or space rental/leases, TV production, and moving services.

FY17 Top Vendors  
(\$ in millions)

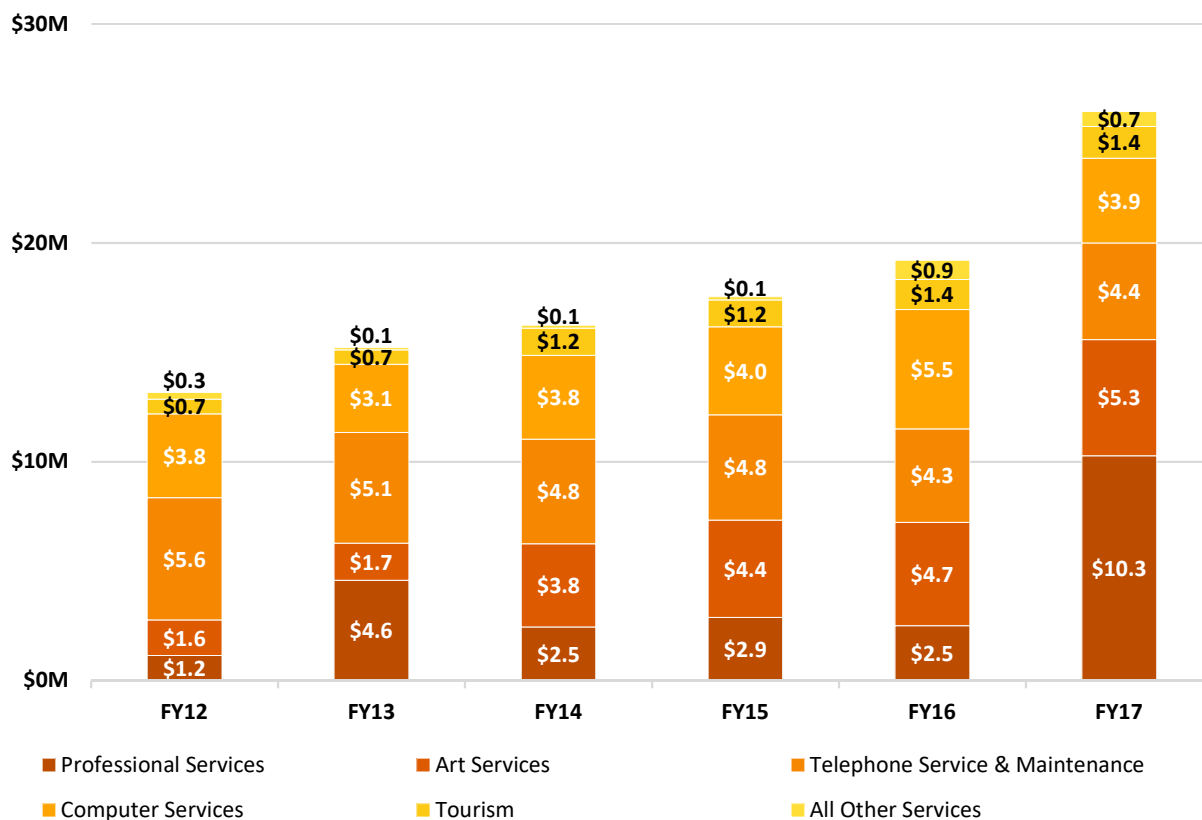


The five top vendors service 74% of the NDAs' services contracts. Three of the top five vendors are private, non-profits authorized by the County: Arts and Humanities Council of Montgomery County, Montgomery County Economic Development Corporation, and WorkSource Montgomery. For the two remaining vendors, CACI NSS supports the computer replacement and Help Desk program and Verizon provides telephone service.

## Non-Departmental Accounts

### Top Service Trends from FY12 to FY17

(\$ in millions)



While the majority of NDAs' recent service contract awards were consistent from year-to-year, experiencing gradual changes, awards for Professional Services increased dramatically in FY17. In FY17, both the Montgomery County Economic Development Corporation and WorkSource Montgomery NDAs were created, drastically increasing Professional Services by \$7.8M (309%) from FY16 to FY17.

### Top Service Examples

**Professional Services** – includes the professional purchase of services, consultant services, and professional services (e.g., Montgomery Coalition for Adult Literacy provides adult English literacy and English as a second language program).

**Art Services** – includes developing, promoting, and coordinating a County-wide effort for the support, encouragement, and performance of arts in the County.

**Telephone Service & Maintenance** – includes local telephone service charges and maintenance.

**Computer Services** – includes software licensure/maintenance agreement, computer equipment and software, and on-line information systems agreements (e.g., SHI International Corporation provides Microsoft software and licenses, including Office 365 renewals).

**Tourism** – promotes tourism in the County (e.g., Conference and Visitors Bureau promotes, markets, and sells the County as a destination for meetings, conventions, travelers, etc.).

**All Other Services** – includes building or space rentals/leases, video production services, TV production, moving services, etc.

# Technology Services

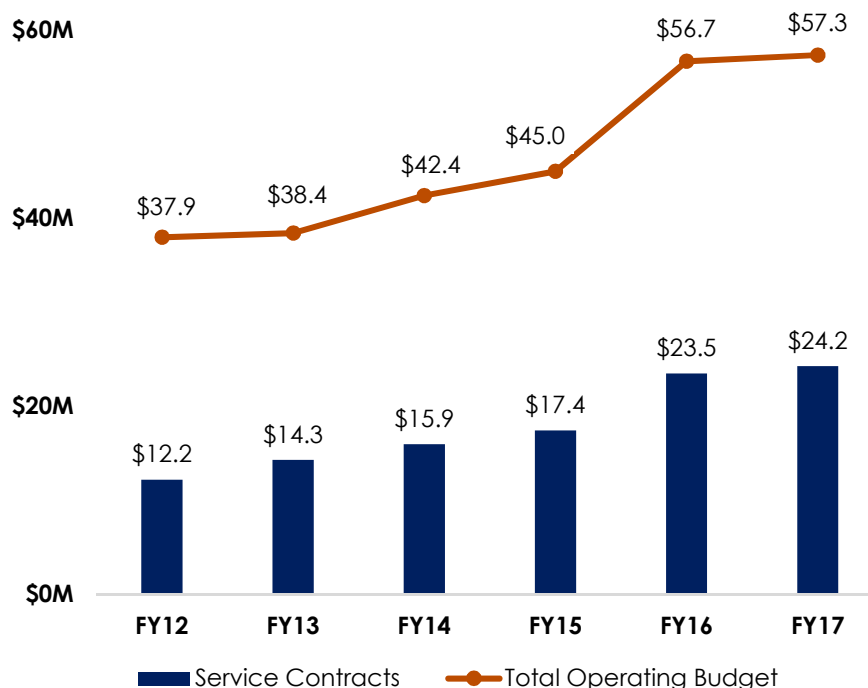
The Montgomery County Department of Technology Services(DTS) uses information technology to enable County employees to provide quality services and information to citizens and businesses. Between FY12-FY17 DTS' operating budget\* increased 51% (\$19.4M) and awards for service contracts increased by 99% (\$12.0M) over the same period. Since FY12, DTS' annual service contracts comprised at least 32% of its total operating budget, reaching a high of 42% in FY17.

In FY17, DTS awarded \$27.1M in contracts for goods and services; the majority of which were for service contracts (\$24.2M or 90%). Of the \$24.2M, DTS awarded the majority of contract dollars for existing service contracts, modifications, and renewals (\$23.7M or 98%) and the remaining on new awards (\$0.5M or 2%).

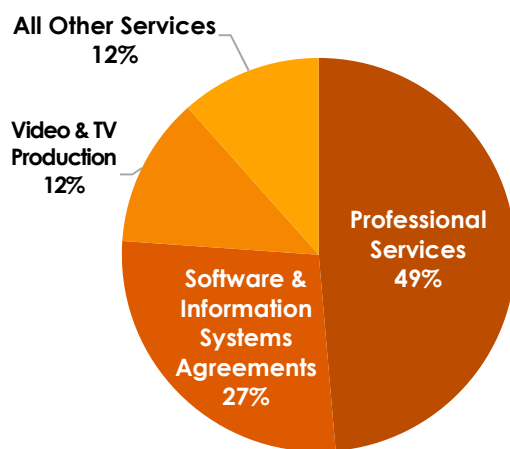
\*DTS's operating budget also includes the Office of Cable & Broadband Services.

## Annual Service Contracts (FY12-FY17)

(\$ in millions)



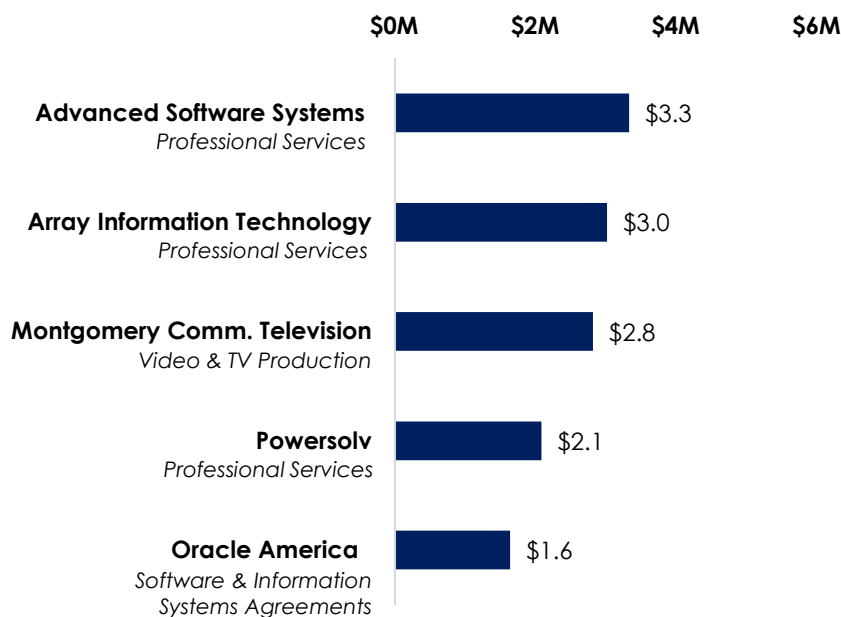
## FY17 Top Contracted Services



DTS' top contracted services are for professional services, \$11.8M, (e.g., information technology consulting); followed by software & information systems agreements, \$6.7M, (e.g., software licenses for County computers/systems); and video & TV production, \$3.0M, (e.g., County cable TV programming). All other services (\$2.8M) includes engineering & architectural services, radio maintenance, computer equipment, TV/video equipment, etc.

## FY17 Top Vendors

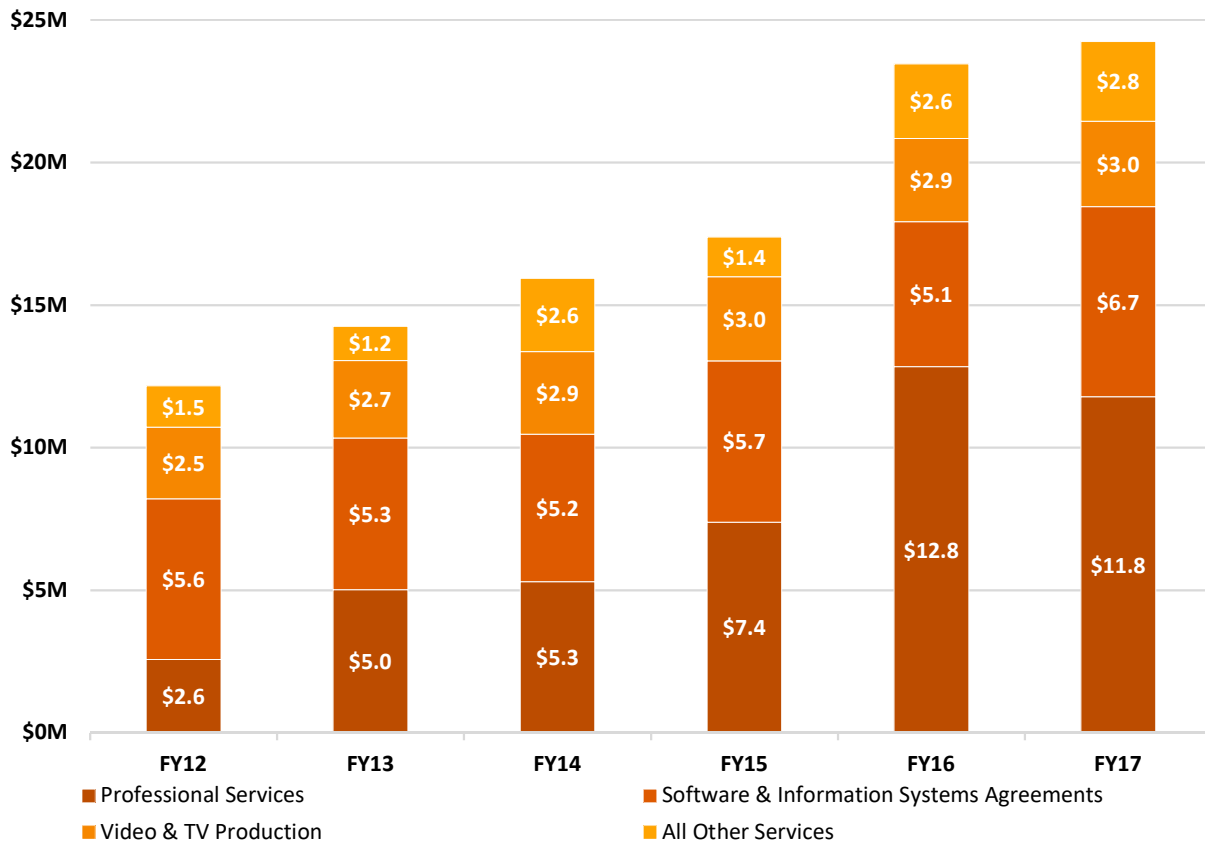
(\$ in millions)



The five top vendors service 53% of all DTS services contracts. Three of the top vendors provide professional services: Advanced Software Systems, Array Information Technology, and Powersolv. Also in the top five are Montgomery Community Television (video & TV production) and Oracle America (software & information systems agreements).

### Top Service Trends from FY12 to FY17

(\$ in millions)



DTS' total contract awards, from FY12-15, rose no more than 17% each year – reaching a high of \$17.4M in FY15. In FY16 contract awards increased by 35% from \$17.4M to \$23.5M when the County shifted the Enterprise Resource Planning (ERP) program from the capital budget to the operating budget, resulting in a 74% increase (\$5.4M) in contract awards for professional services.

### Top Service Examples

**Professional Services** – includes consultant services, management consulting, and other professional services (e.g., Advanced Software Systems' information technology consulting and technical services).

**Software & Information System Agreements** – includes software or online licensing and maintenance agreements (e.g., SHI International Corp's Microsoft Office 365 software and licenses).

**Video & TV Production** – includes the cable programming management and production services.

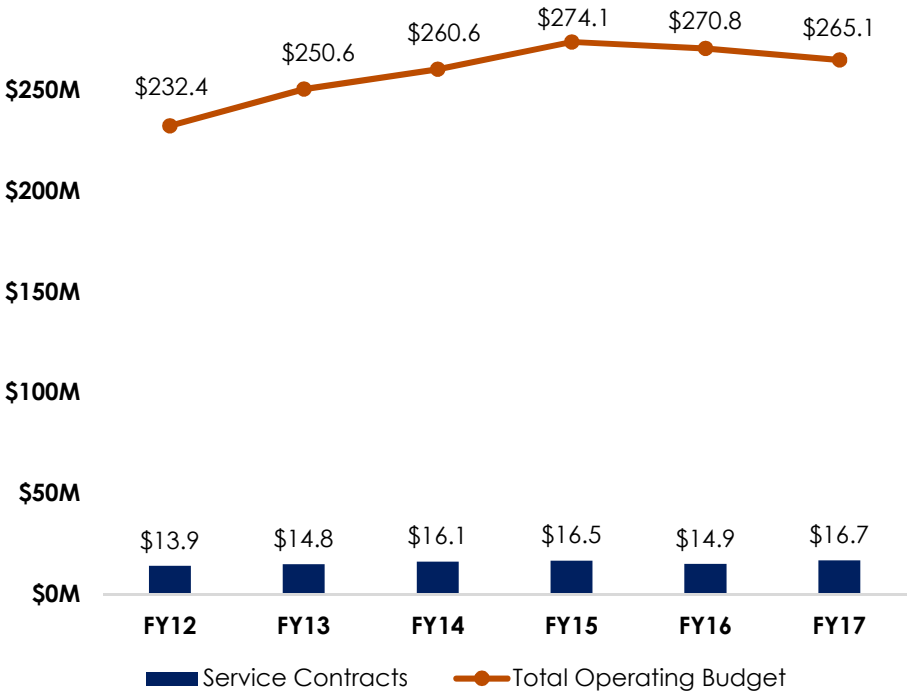
**All Other Services** – includes engineering and architectural services, radio maintenance, computer equipment, TV/video equipment, temporary personnel, etc.

# Police

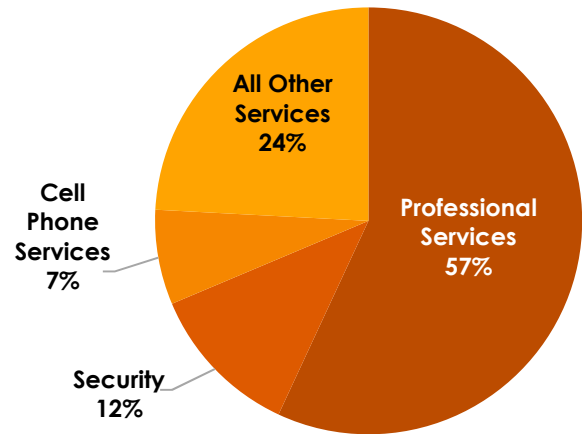
The Montgomery County Department of Police (MCPD) safeguards life and property, preserves peace, prevents and detects crime, enforces the law, and protects the rights of citizens. Between FY12-FY17 MCPD's operating budget increased 14% (\$32.7M) and awards for service contracts increased by 20% (\$2.8M) over the same period. Since FY12, MCPD's annual service contracts comprised 6% of its total operating budget each year (except FY16 (5%)).

In FY17, MCPD awarded \$21.1M in contracts for goods, services, and construction; the majority of which were for service contracts (\$16.7M or 79%). Of the \$16.7M, MCPD awarded the majority of contract dollars for existing service contracts and renewals (\$16.6M or 99.5%) and the remaining on new awards (\$0.1M or 0.5%).

Annual Service Contracts (FY12-FY17)  
(\$ in millions)

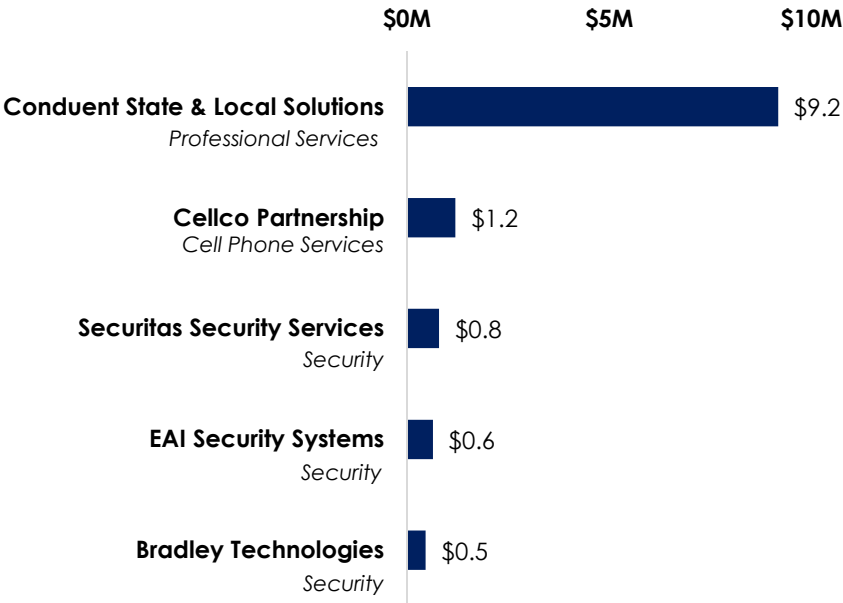


FY17 Top Contracted Services



MCPD's top contracted services are for professional services, \$9.5M, (e.g., automated traffic enforcement – speed and red-light cameras); followed by security, \$2.0M, (e.g., security guards and systems); and cell phone services, \$1.2M, (e.g., services and equipment). All other services (\$4.0M) includes software agreements, uniform cleaning, temporary clerical staff, laboratory services, etc.

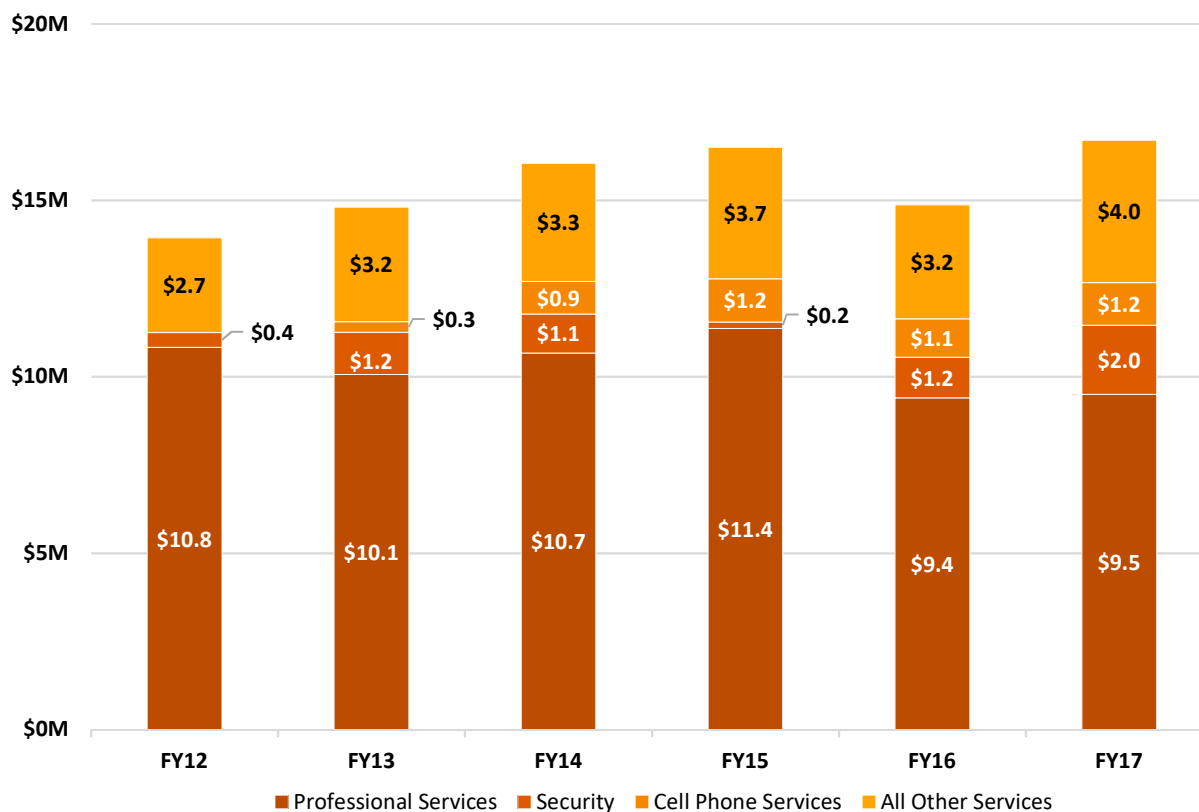
FY17 Top Vendors  
(\$ in millions)



The five top vendors service 74% of all MCPD services contracts. The professional services' contract with Conduent State & Local Solutions, for automated traffic enforcement service, is almost three times as large as the next four top vendors combined. The vendor with the next largest contract, Cellco Partnerships, provides cell phone services, while the remaining three top vendors provide security services: Securitas Security Services, EAI Security Systems, and Bradley Technologies.

### Top Service Trends from FY12 to FY17

(\$ in millions)



MCPD's professional services contracts have comprised at least 57% of all contracted services annually from FY12-17 primarily due to services for speed and red-light cameras. MCPD saw its largest increase in contracted services from FY16 to FY17 (12%) due to growth across all service contract categories. Of note, security services increased the most, by 67% or \$0.8M, partially due to funds added to the FY17 budget for County security and improvements.

### Top Service Examples

**Professional Services** – includes the management of the automated traffic enforcement, collection, and violation processing system, DNA analysis services, and consulting services (e.g., Conduent State & Local Solutions' speed and red-light camera services).

**Security** – includes the security services and the maintenance for security systems/alarms (e.g., EAI Security Systems' electronic security systems services).

**Cell Phone Services** – includes the service, equipment, and maintenance for cell phones.

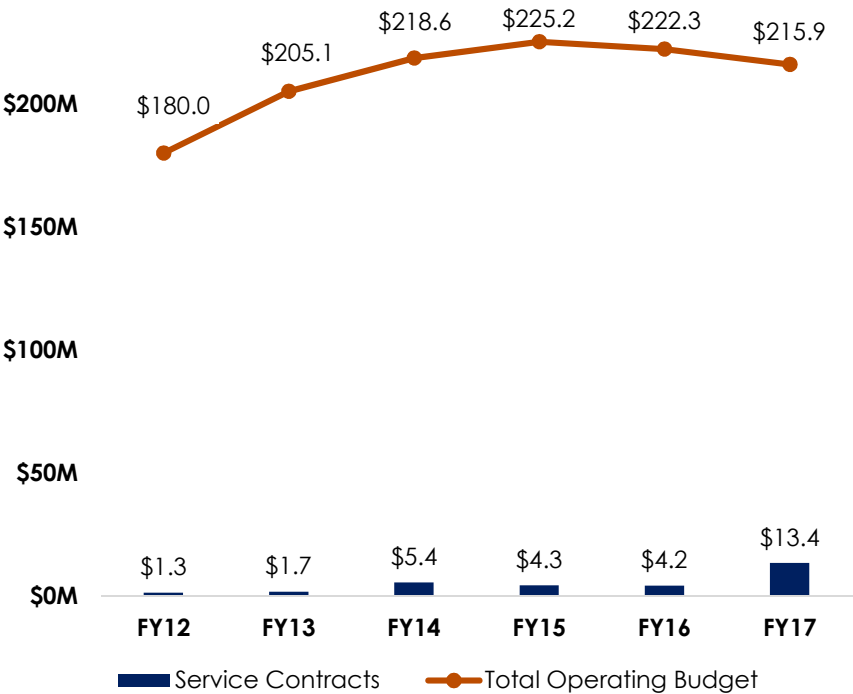
**All Other Services** – includes software agreements, uniform cleaning, laboratory services, radio equipment, professional psychological screening, etc.

# Fire and Rescue Service

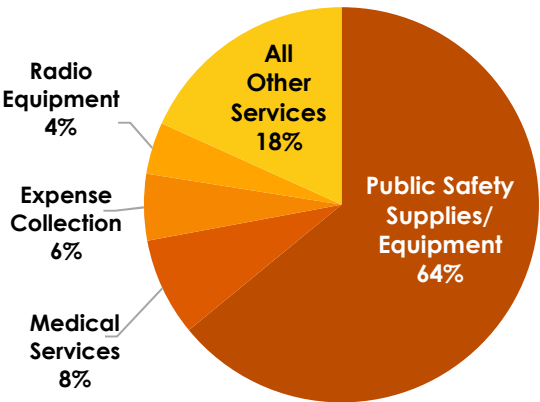
The Montgomery County Fire and Rescue Service (MCFRS) protects lives, property, and the environment with comprehensive risk reduction programs and safe, efficient, and effective emergency response provided by career and volunteer service providers. Between FY12-FY17 MCFRS' operating budget increased 20% (\$35.9M) and awards for service contracts increased by 940% (\$12.1M) over the same period. Since FY12, MCFRS' annual service contracts comprised only between 1-2% of its total operating budget each year, except for FY16 (6%). This escalation was due to a one-time self-contained breathing apparatus equipment and associated service expenditure.

In FY17, MCFRS awarded \$16.8M in contracts for goods and services; the majority of which were for service contracts (\$13.4M or 80%). Of the \$13.4M, MCFRS awarded the majority of contract dollars for existing service contracts (\$13.3M or 99.7%) and the remaining on contract modifications (\$0.1M or 0.3%).

Annual Service Contracts (FY12-FY17)  
(\$ in millions)

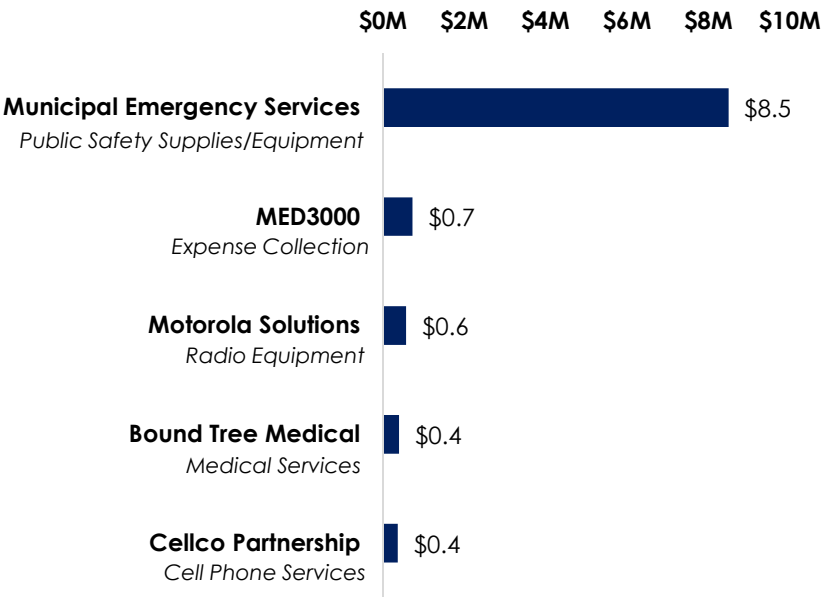


FY17 Top Contracted Services



MCFRS' top contracted services are for public safety supplies/equipment, \$9.5M, (e.g., self-contained breathing apparatus equipment and associated service); followed by medical services, \$1.1M, (e.g., medical supplies and physician services); expense collection, \$0.7M, (e.g., emergency medical services billing); and radio equipment, \$1.2M, (e.g., equipment and related services). All other services (\$2.4M) includes cell phone services, uniform cleaning, snow removal, other professional services, etc.

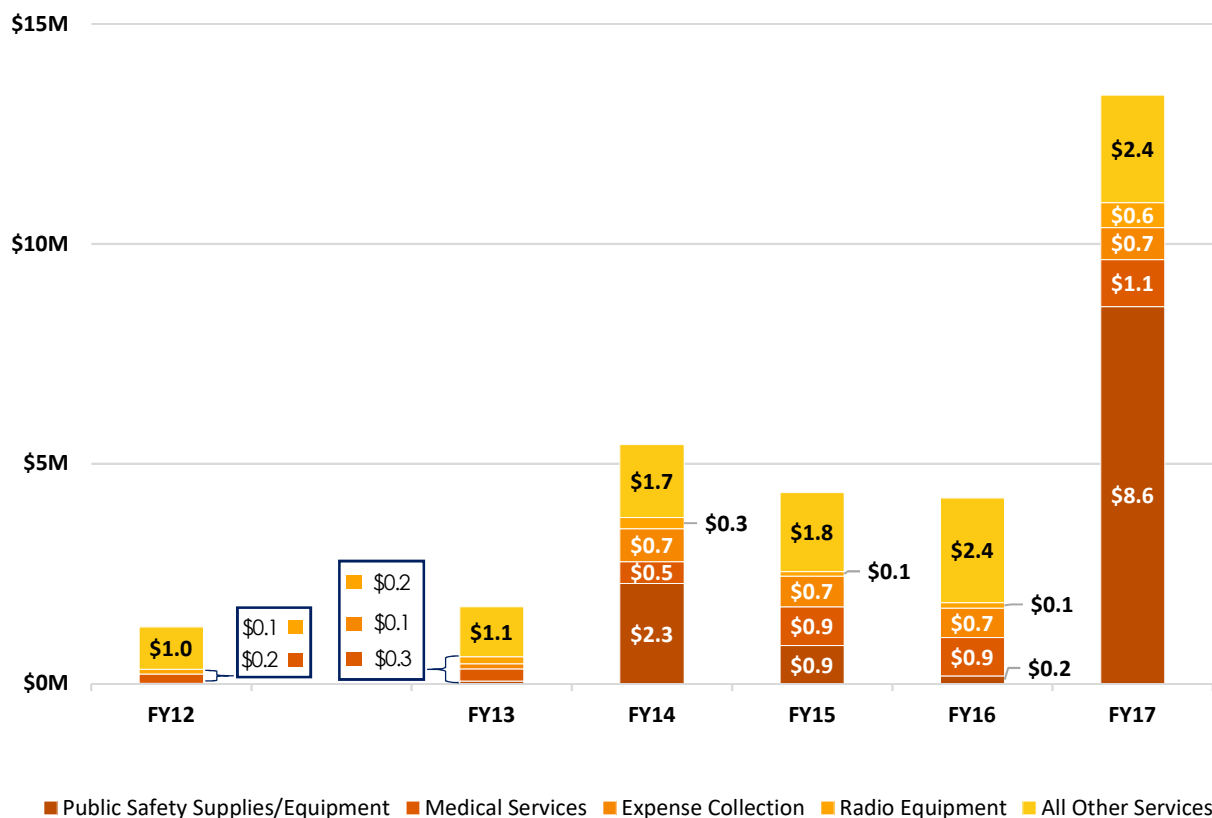
FY17 Top Vendors  
(\$ in millions)



The five top vendors service 79% of all MCFRS services contracts. The public safety supplies/equipment contract with Municipal Emergency Services, for self-contained breathing apparatus and associated service, is more than four times larger than the next four top vendors combined. The other top vendors all provide different services: MED3000 provides expense collection; Motorola Solutions provides radio equipment and related services; Bound Tree Medical provides medical services; and Cellco Partnership provides cell phone services.

### Top Service Trends from FY12 to FY17

(\$ in millions)



From FY12-16, MCFRS did not exceed \$5.4M annually for service contract awards. However, total contract awards increased from \$4.2M in FY16 to \$13.4M in FY17, an increase of \$9.2M or 217% – due to a one-time purchase of self-contained breathing apparatus and associated service totaling \$8.5M. MCFRS staff expect the service contracts to resume to pre-FY17 levels in FY18.

### Top Service Examples

**Public Safety Supplies/Equipment** – includes the self-contained breathing apparatus devices and associated services, HVAC services at fire stations, and Life Pak Monitors, defibrillators, parts, and related services (e.g., Physio-Control's Life Pak Monitors, defibrillators, and services).

**Medical Services** – includes professional physician services, medical supplies, equipment, and associated service/repair, and drugs and medicine with professional guidance (e.g., Roger M Stone, MD, serves as the Emergency Medical Services Medical Director).

**Expense Collection** – includes the billing for emergency medical transport services and associated services.

**Radio Equipment** – includes the radio replacement, parts, and service at fire stations and at the Emergency Communications Center.

**All Other Services** – includes cell phone services, uniform cleaning, snow removal for MCFRS buildings, plumbing maintenance, software licenses/maintenance agreements, etc.

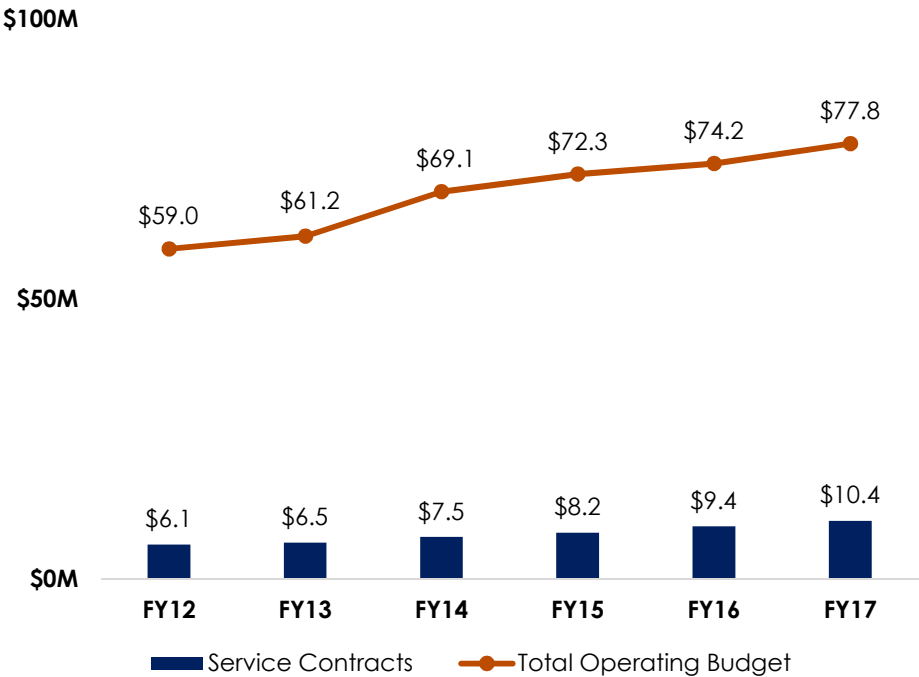


# Finance

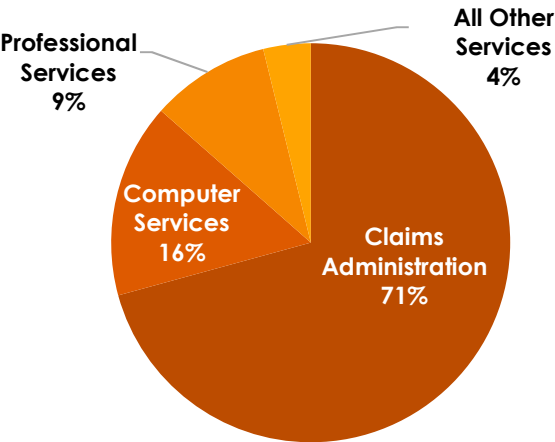
The Department of Finance manages County financial operations, recommends and implements sound fiscal policies, safeguards public assets, and manages the County's Self-Insurance Program. Between FY12-FY17 Finance's operating budget increased 32% (\$18.8M) and awards for service contracts increased by 69% (\$4.2M) over the same period. Since FY12, Finance's annual service contracts comprised at least 10% of its total operating budget each year, reaching a high of 13% in FY16 and FY17.

In FY17, Finance awarded \$10.7M in contracts for goods, services, and construction; the majority of which were for service contracts (\$10.4M or 97%). Of the \$10.4M, Finance awarded the majority of contract dollars for existing service contracts (\$10.3M or 99.9%) and the remaining on contract modifications and new awards (\$0.1M or 0.1%).

Annual Service Contracts (FY12-FY17)  
(\$ in millions)

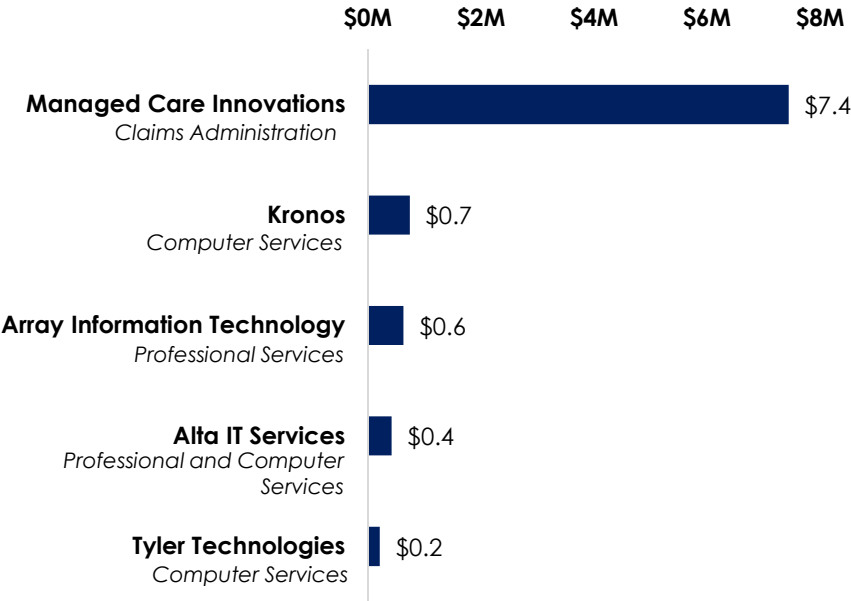


FY17 Top Contracted Services



Finance's top contracted services are for claims administration, \$7.3M, (e.g., receive and process insurance claims against the County); followed by computer services, \$1.6M, (e.g., software licensure/maintenance agreements; computer replacement and support); and professional services, \$1.0M, (e.g., consulting and financial advisory services). All other services (\$0.4M) includes insurance services, outside printing/copying services, accounting/auditing services, etc.

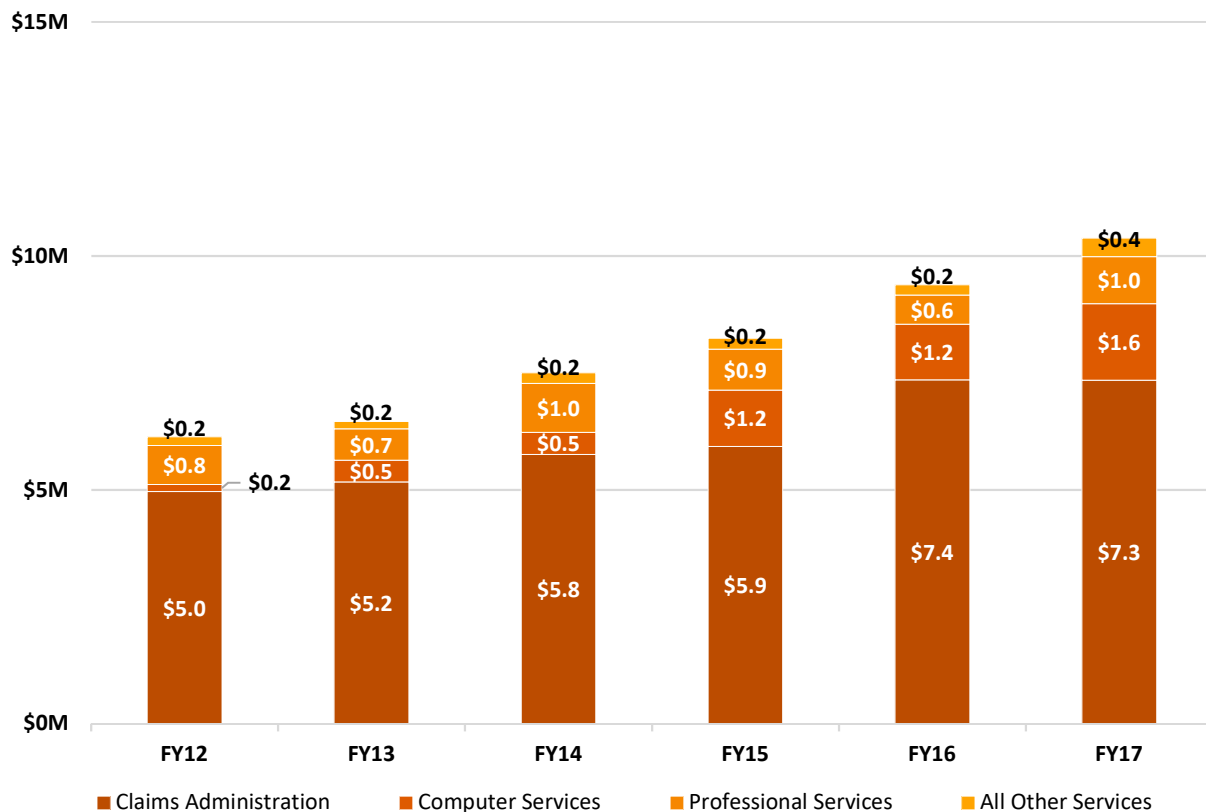
FY17 Top Vendors  
(\$ in millions)



The five top vendors service 91% of all Finance services contracts. The Claims Administration contract with Managed Care Innovations, which receives and processes insurance claims against the County, is more than three times larger than the next four vendors combined. The other top vendors all provide computer and/or professional services: Kronos (computer); Array (professional); Alta IT Services (professional and computer); and Tyler Technologies (computer).

## Top Service Trends from FY12 to FY17

(\$ in millions)



From FY14-17, Finance's service contract awards steadily increased by at least 10% each year, primarily due to the increases in two service contract categories: computer services and claims administration. The yearly increases for computer services were related to the Kronos Timekeeping Software. In FY15, the maintenance support contract for the software moved from the Department of Technology Services, the Montgomery County Police Department, and the Montgomery County Fire and Rescue Service to Finance. In FY17, the Kronos contract increased due to a software upgrade. Claims administration increased by 25% or \$1.5M from FY15 to FY16 due to new pricing when the County re-bid and awarded a new contract.

## Top Service Examples

**Claims Administration** – includes receiving and processing insurance claims (worker's compensation, commercial general liability, business automobile, real and personal property, and miscellaneous property) against the County.

**Computer Services** – includes software licensure/maintenance agreements and computer equipment repairs/maintenance (e.g., Tyler Technologies' software and service maintenance for the property tax receivable systems).

**Professional Services** – includes consultant services and temporary para-professionals (e.g., Array Information Technology's information technology consulting and technical services).

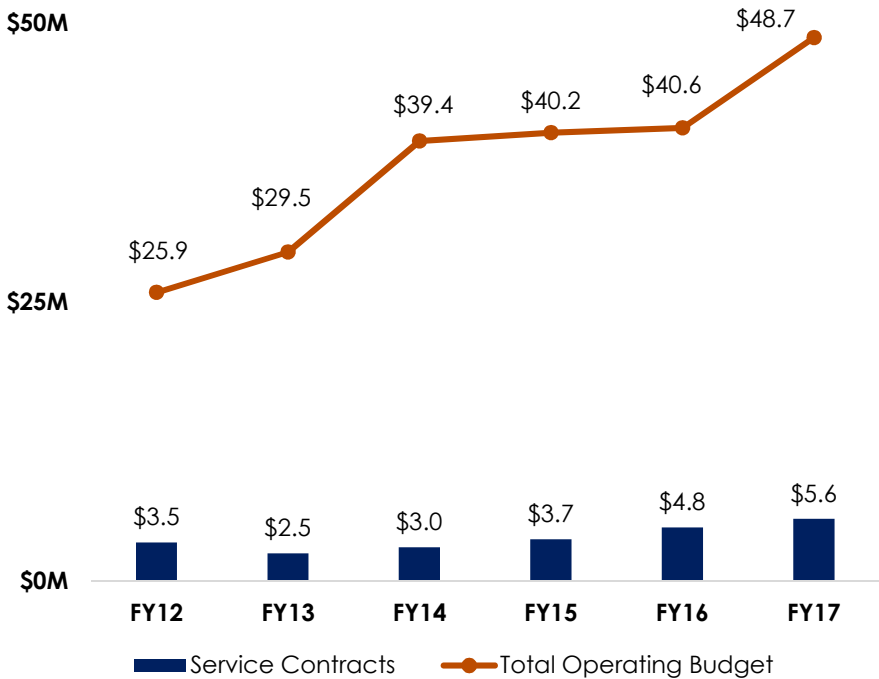
**All Other Services** – includes insurance services, outside printing/copying services, evaluation services, professional education/training, accounting/auditing services, etc.

# Housing and Community Affairs

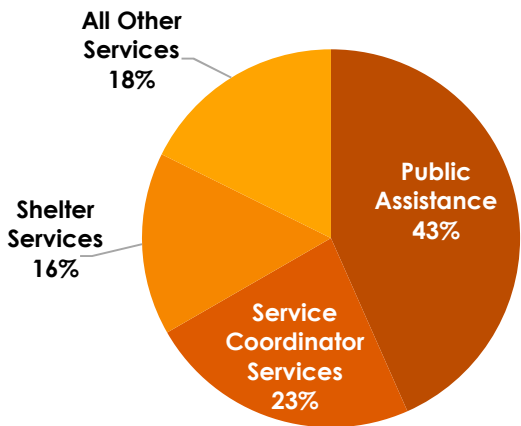
The Department of Housing and Community Affairs (DHCA) implements activities which prevent problems that contribute to the physical decline of residential and commercial use; ensures fair and equitable relations between landlords and tenants; and increases the supply of affordable housing. Between FY12-FY17 DHCA's operating budget increased 88% (\$22.8M) and awards for service contracts increased by 61% (\$2.1M) over the same period. Since FY12, DHCA's annual service contracts comprised at least 8% of its total operating budget each year, reaching a high of 13% in FY12. While funding is in DHCA's budget, Health and Human Services administers the services and funding for the Montgomery Housing Initiative Fund.

In FY17, DHCA awarded \$6.3M in contracts for goods, services, and construction; the majority of which were for service contracts (\$5.6M or 88%). Of the \$5.6M, DHCA awarded the majority of contract dollars for contract renewals (\$3.4M or 61%) and existing service contracts (\$1.8M or 32%). The remaining was awarded for contract modifications and new awards (\$0.4M or 7.0%).

Annual Service Contracts (FY12-FY17)  
(\$ in millions)

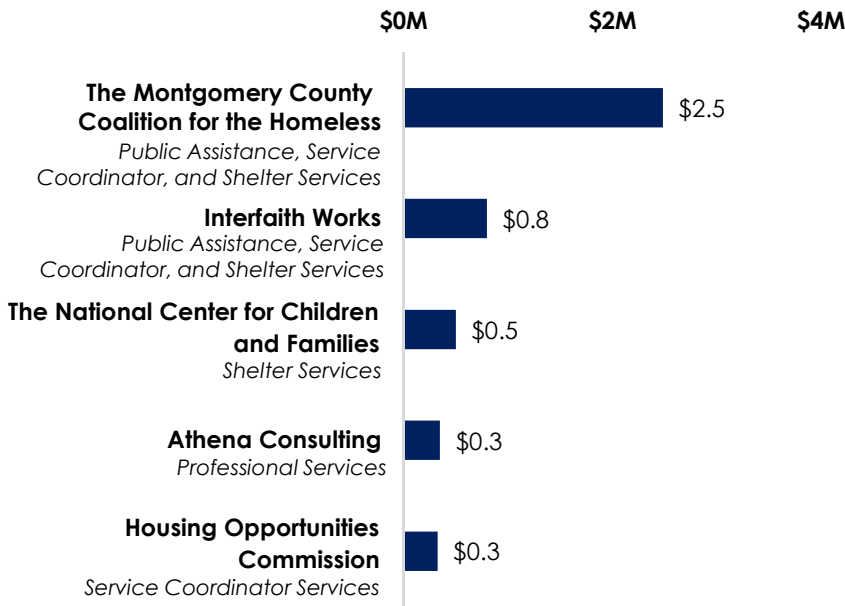


FY17 Top Contracted Services



DHCA's top contracted services are for public assistance, \$7.3M, (e.g., provide affordable permanent housing for the homeless); followed by service coordinator services, \$1.3M, (e.g., aid homeless through the Housing Initiative Program); and shelter services, \$0.9M, (e.g., provide shelter for homeless and rental assistance). All other services (\$1.0M) includes professional services, computer services, engineering and architectural services, translation services, etc.

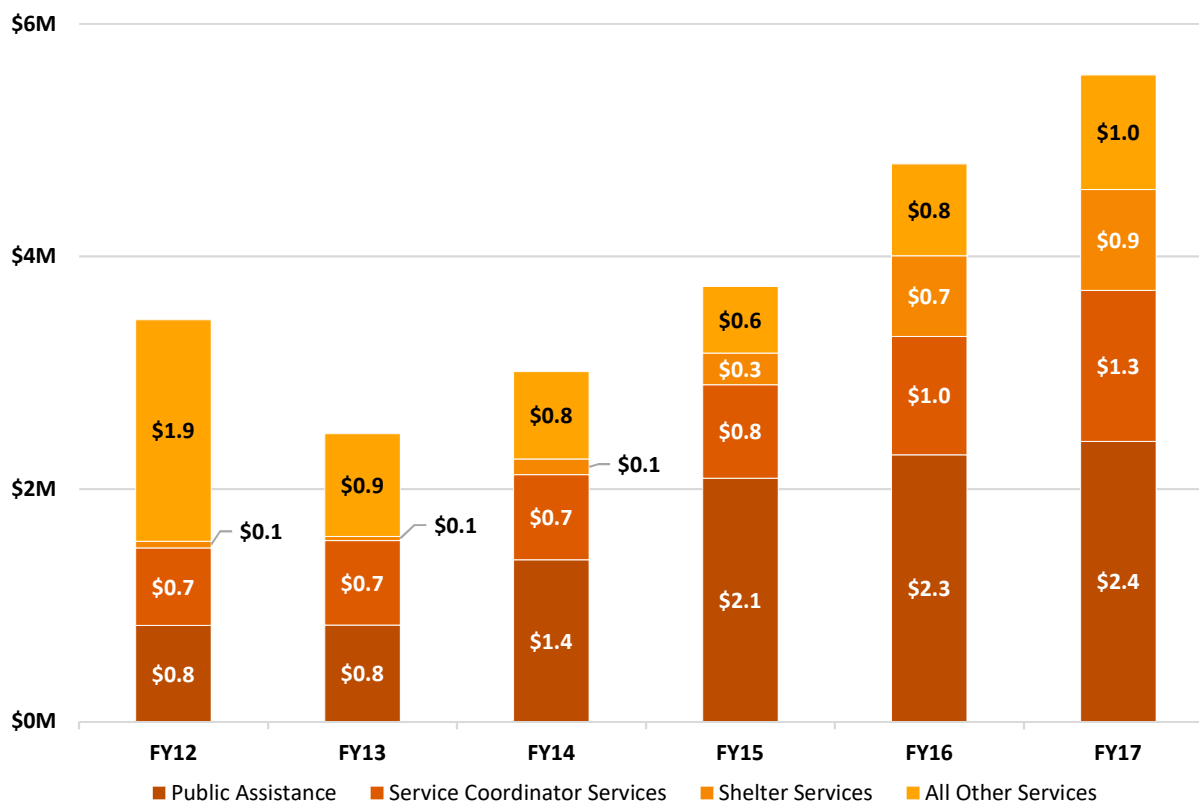
FY17 Top Vendors  
(\$ in millions)



The five top vendors service 80% of all DHCA services contracts. The top two vendors - Montgomery County Coalition for the Homeless and Interfaith Works – provide an array of services including public assistance, service coordinator services, and shelter services. Also in the top five are the National Center for Children and Families (shelter services), Athena Consulting (professional services), and the Housing Opportunities Commission (service coordinator services).

### Top Service Trends from FY12 to FY17

(\$ in millions)



DHCA is funded by the County general fund, the Maryland Housing Initiative (MHI), and grants. DHCA's contractual awards are heavily reliant on MHI funding and grants. For example, as MHI and grant funds increase, DHCA can increase its contracts for needed housing services. The trend in increased funding shown above represents increases in MHI/grant funding, which led to increased contracting. The high funding for all other services in FY12 and FY13 was due to DHCA's use of American Recovery and Reinvestment Act grant funds (federal stimulus funding) for weatherization projects to reduce energy costs for low-income households.

### Top Service Examples

**Public Assistance** – includes providing affordable permanent supportive housing for homeless including families with children and single adults; identifying and locating homes for the most vulnerable and chronically homeless people.

**Service Coordinator Services** – includes aiding homeless individuals through the Montgomery Housing Initiative Program and operating the Veteran's Operation Homecoming Program.

**Shelter Services** – includes supportive housing for homeless adults and children (e.g., Interfaith Works supportive housing for 21 homeless adults without children at Progress Place).

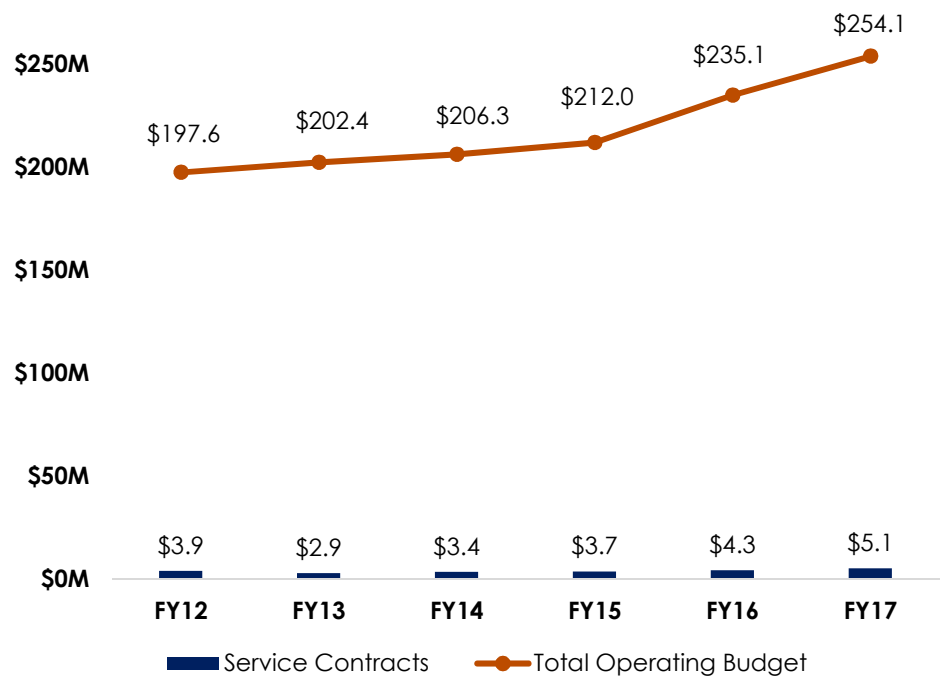
**All Other Services** – includes professional services, computer services, engineering and architectural services, translation services, etc.

# Human Resources

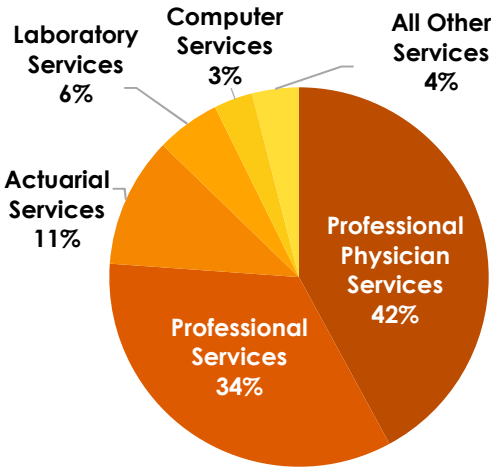
The Office of Human Resources (OHR) provides a human resources program that attracts, develops, and retains a diverse, high-performing and well-qualified workforce. Between FY12-FY17 OHR's operating budget increased 29% (\$56.5M) and awards for service contracts increased by 33% (\$1.2M). Since FY12, OHR's annual service contracts comprised 2% of its total operating budget each year, except FY13 (1%). OHR is responsible for claims and administration payments to the County's insurance providers, and those payments were excluded from this analysis.

In FY17, OHR awarded \$5.2M in contracts for goods and services; the majority of which were for service contracts (\$5.1M or 99%). All of the \$5.1M was awarded to existing service contracts.

Annual Service Contracts (FY12-FY17)  
(\$ in millions)

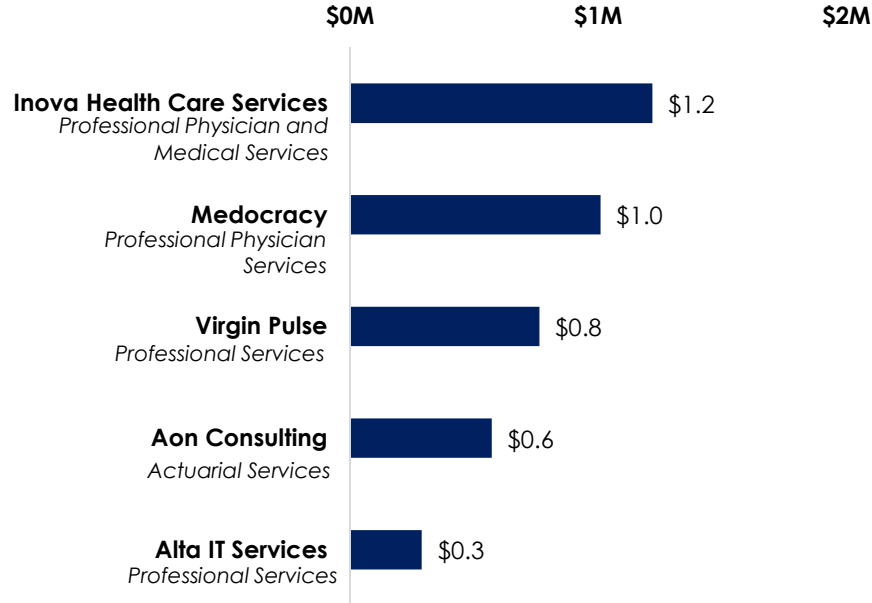


FY17 Top Contracted Services



OHR's top contracted services are for professional physician services, \$2.2M, (e.g., occupational medical and wellness services); followed by professional services, \$1.7M, (e.g., consulting and labor negotiation); actuarial services, \$0.6M, (e.g., determine, assess and plan for the financial impact of risk regarding employee benefits); laboratory services, \$0.3M; and computer services, \$0.2M, (e.g., develop, implement, and/or support enterprise software systems.). All other services (\$0.2M) includes professional/licensure training, medical services, disability services, etc.

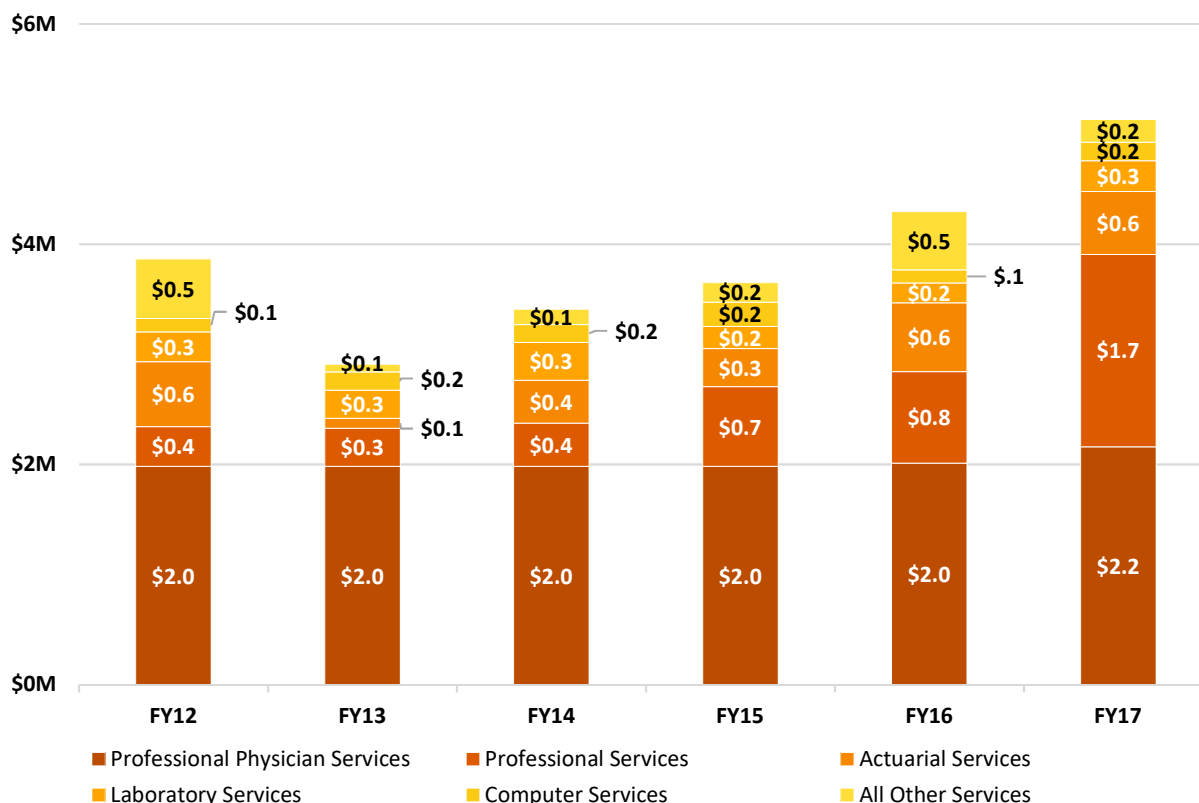
FY17 Top Vendors  
(\$ in millions)



The five top vendors serviced 75% of all OHR services contracts. The top two vendors, Inova Health Care Services and Medocracy, Inc., provided professional physician and medical services for OHR's Occupational Medical Services and Fire Rescue Occupational Medical Services clinics. They are followed by Virgin Pulse, which provides the platform and professional services for the County's Employee Wellness program. Also, in the top five are Aon Consulting (actuarial services) and Alta IT Services (professional services).

### Top Service Trends from FY12 to FY17

(\$ in millions)



Awards for services contracts, overall, decreased by 25% or \$1.0M from FY12 to FY13 due to mandated spending reductions (mediation, arbitration, and employee services). Professional services saw the largest percentage increase from FY12-17, an increase of 383% (\$1.4M) due to the implementation of the County's Employee Wellness program in FY16. In comparison, the amount of OHR's services contracts for professional physician and computer services were consistent from FY12-17, averaging \$2.0M and \$0.1M, respectively.

### Top Service Examples

**Professional Physician Services** – includes providing occupational medical and wellness services for County employees, the Housing Opportunities Commission, and qualified applicants.

**Professional Services** – includes management consulting and consultant services (e.g., ComPsych Corporation's management consulting for the Employee Wellness Program).

**Actuarial Services** – includes determining, assessing, and planning for the financial impact of risk regarding employee benefits.

**Laboratory Services** – includes laboratory testing for the Occupational Medical Services program (e.g., LabCorp's lab testing services for OMS/FROMS and Inova HealthCare Services provides breath alcohol and drug urine collection services).

**Computer Services** – includes computer, computer equipment/repair service, and developing and implementing software systems (e.g., Advanced Software Systems' information technology services).

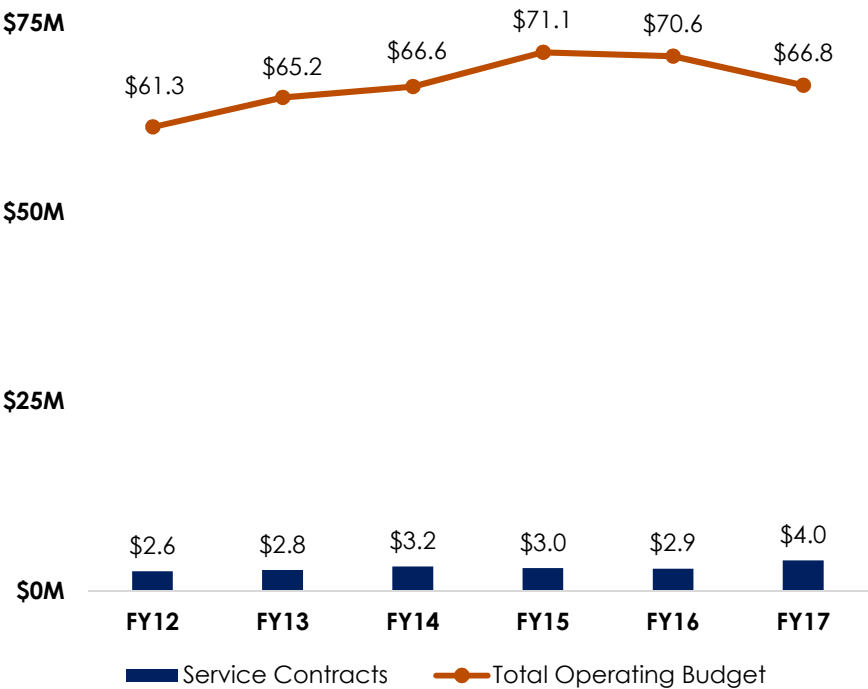
**All Other Services** – includes professional/licensure training, medical services, disability services, temporary office services, etc.

# Correction and Rehabilitation

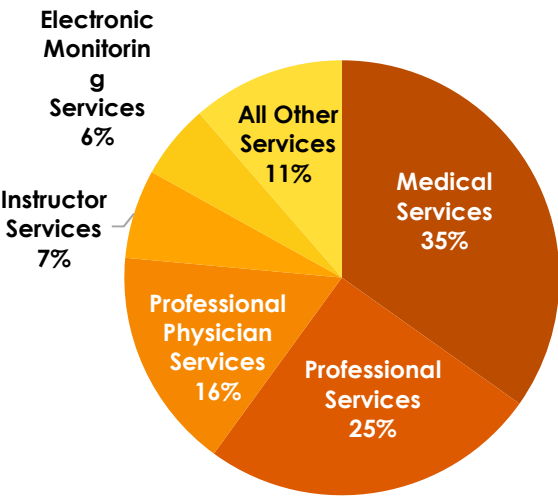
The Department of Correction and Rehabilitation(DOCR) protects and serves the residents of Montgomery County and the general public by providing progressive and comprehensive correctional, rehabilitative, and community re-entry services. Between FY12-FY17 DOCR's operating budget increased 9% (\$5.5M) and awards for service contracts increased 56% (\$1.4M). Since FY12, DOCR's annual service contracts comprised at least 4% of its total operating budget each year, reaching a high of 6% in FY17.

In FY17, DOCR awarded \$6.0M in contracts for goods, services, or construction; the majority of which were for service contracts (\$4.0M or 68%). Of the \$4.0M, DOCR awarded the majority of contract dollars for existing service contracts (\$3.5M or 87%), with new awards and renewals totaling 13% (\$0.5M).

Annual Service Contracts (FY12-FY17)  
(\$ in millions)

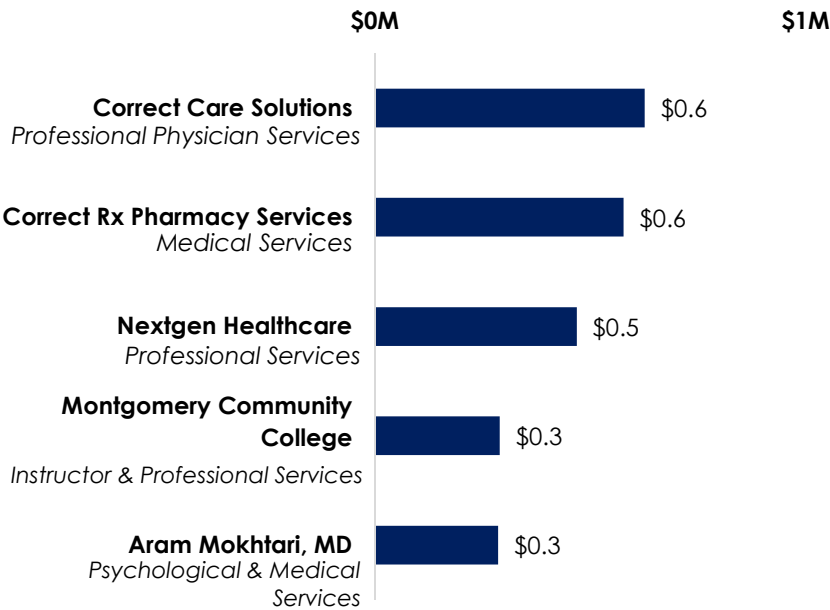


FY17 Top Contracted Services



DOCR's top contracted services are for medical services, \$1.4M (e.g., provide hospital and pharmacy services); followed by professional services, \$1.0M (e.g., consulting and labor negotiation); professional physician services, \$0.7M (e.g., on-site dental and dialysis services); instructor services, \$0.3M; and electronic monitoring services, \$0.2M. All other services (\$0.5M) includes building construction, uniform cleaning, cameras, etc.

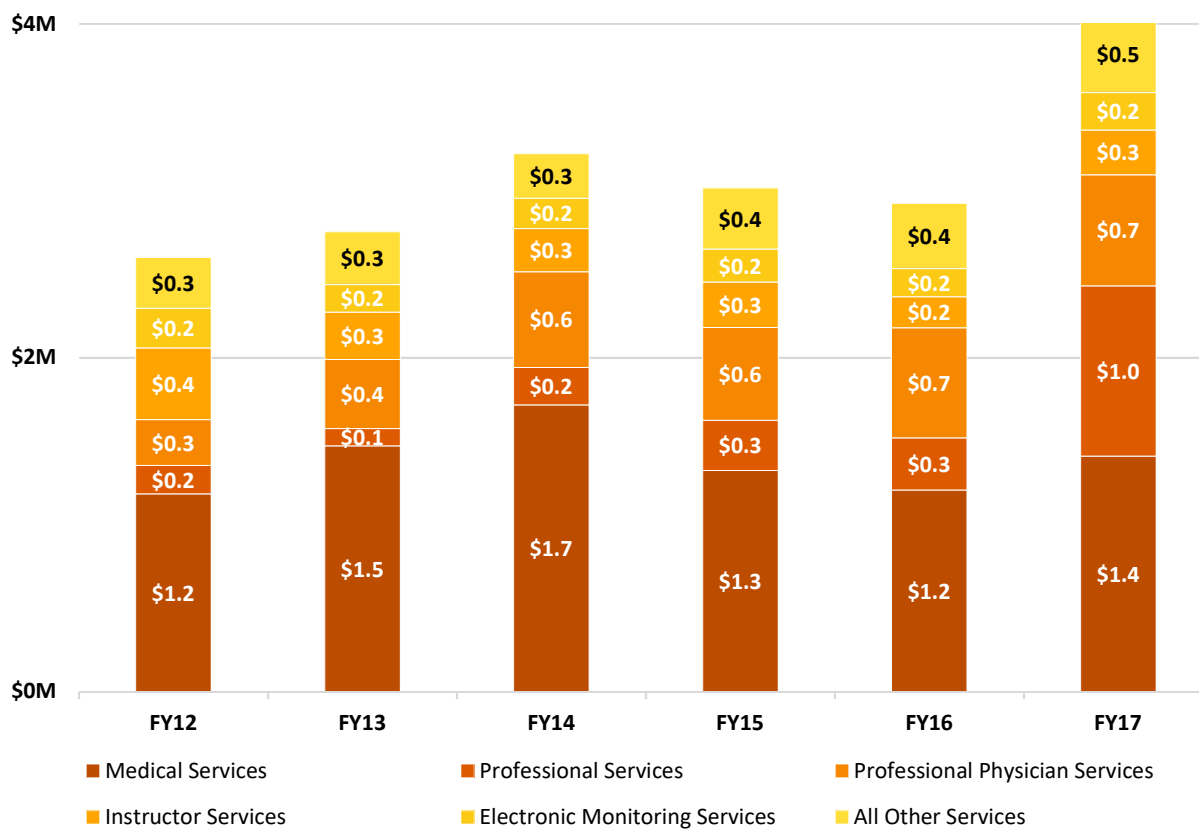
FY17 Top Vendors  
(\$ in millions)



The five top vendors service 56% of all DOCR services contracts, with a difference of only \$0.3M between the first to the fifth highest. Three of the top five contractors provide professional physician and medical services – Correct Care Solutions, Correct Rx Pharmacy Services, and Aram Mokhtari. The remaining two – Nextgen Healthcare and Montgomery Community College – provide professional and instructor services. Nextgen provides the electronic medical records system and the College provides education services for inmates and professional development training.

### Top Service Trends from FY12 to FY17

(\$ in millions)



From FY12-FY16, DOCR's services contracts for all categories remained consistent, with year-to-year changes no more than \$0.4M for each services contract category. The largest year-to-year change occurred from FY16 to FY17, when the overall services contracts increased by 38% or \$1.1M primarily due to a \$0.7M increase in professional services related to the electronic time reporting and management systems.

Medical services contracts fluctuated due to cost changes in the medical field. In FY15 and in FY17, the price for certain medications increased significantly due to aberrant cost increases for materials and shortage of generics. The long-term effect has not been as severe because the average daily population of inmates has decreased and doctors have used cost effective alternatives when possible. Professional physician services increased in FY13 for an initial contract for a physician's assistant, but it has only increased by the Consumer Price Index after that change.

### Top Service Examples

**Medical Services** – includes providing pharmacy, psychological, hospital, radiology, professional psychological screening, dental, and laboratory services.

**Professional Services** – includes providing consulting, management and support of software, re-entry services, professional training, and mentoring (e.g., Identity's Spanish language support and community re-entry services).

**Professional Physician Services** – provides on-site professional medical care for inmates (e.g., Jeffrey R. Lose's onsite optometry service for inmates).

**Instructor Services** – provides correctional education for inmates, including preparatory classes for a General Education Diploma.

**Electronic Monitoring Services** – includes providing electronic monitoring services and equipment.

**All Other Services** – includes building construction, uniform cleaning, cameras, accounting/auditing services, interpreter services, etc.

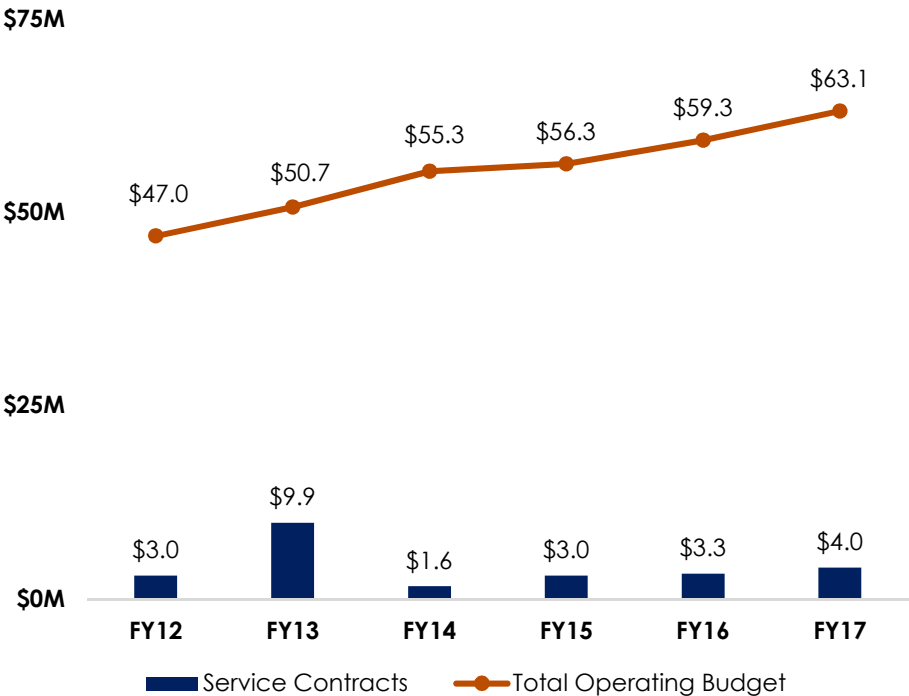


# Liquor Control

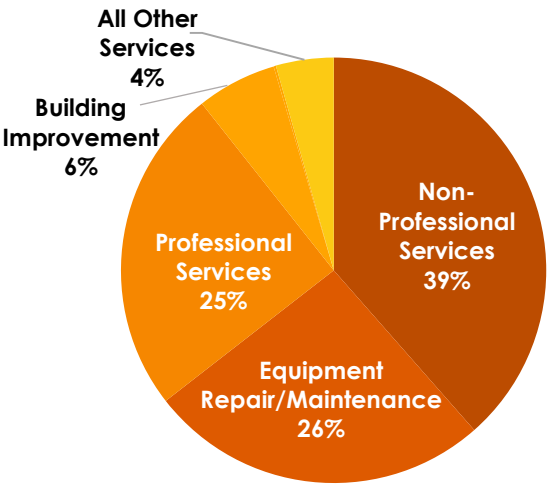
The Department of Liquor Control (DLC) provides licensing, wholesale, and retail sales of beverage alcohol products, enforcement and effective education and training programs. Between FY12-FY17 DLC's operating budget increased by 34% (\$16.1M) and awards for service contracts increased by 33% (\$1.0M). Since FY12, DLC's annual service contracts comprised at least 3% of its total operating budget each year, reaching a high of 19% in FY13.

In FY17, DLC awarded \$7.1M in contracts for goods, services, or construction; the majority of which were for service contracts (\$4.0M or 57%). Of the \$4.0M, DLC awarded the majority of contract dollars on existing service contracts (\$2.4M or 60%) and contract renewals (\$1.2M or 31%). The remaining was awarded for new awards (\$0.4M or 9%).

Annual Service Contracts (FY12-FY17)  
(\$ in millions)

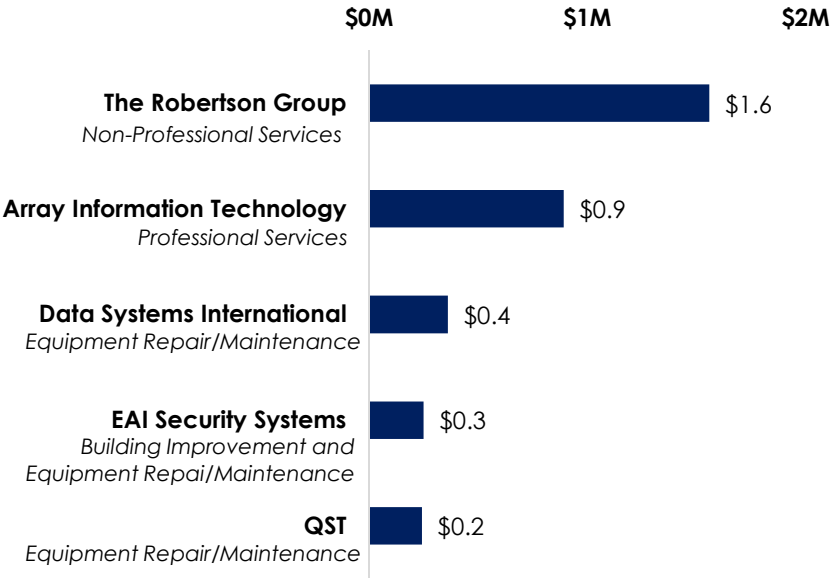


FY17 Top Contracted Services



DLC's top contracted services are for non-professional services, \$1.6M (e.g., night loading service for the beverages); followed by equipment repair/maintenance, \$1.1M (e.g., heating, ventilation, and air conditioning service at stores; design and install conveyer system and racks); professional services, \$1.0M (e.g., information technology consulting); and building improvement, \$0.2M (e.g., adding/improving security systems at stores). All other services (\$0.2M) includes engineering and architectural services, security services, temporary office staff, etc.

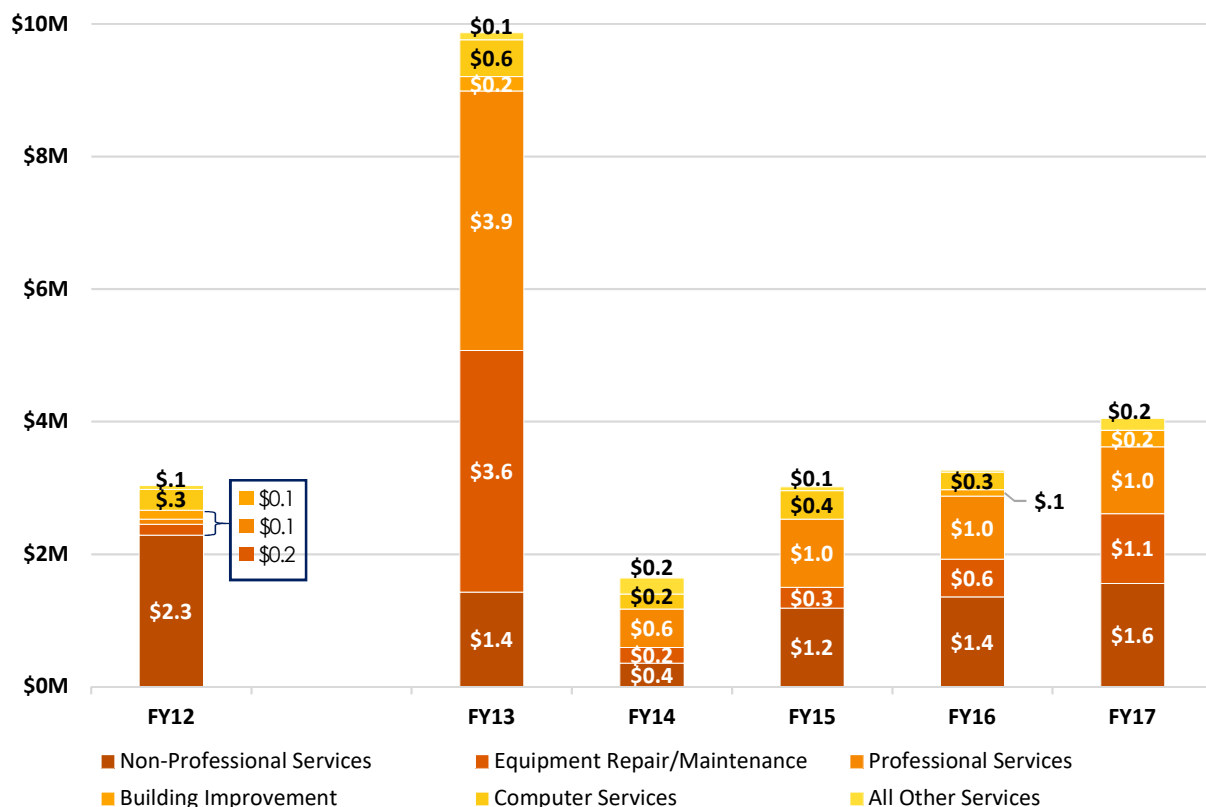
FY17 Top Vendors  
(\$ in millions)



The five top vendors service 82% of all DLC services contracts. The top two vendors – the Robertson Group (non-professional services) and Array Information Technology (professional services) – service 61% of all DLC contracts. The remaining three vendors in the top five – Data Systems International, EAI Security Systems, and QST – all provide equipment repair/maintenance. EAI Security Systems also provides building improvement services.

## Top Service Trends from FY12 to FY17

(\$ in millions)



Contract awards spiked in FY13 by 225% (\$6.8M) followed by a decrease in FY14 of 83% (\$8.2M) due to the implementation of Enterprise Resource Planning (ERP) Oracle system modules (accounts payable, purchasing, and business intelligence tool) for DLC and designing/installing a new conveyer system and racks. The decrease in FY14 resulted from reductions in professional services (ERP implementation), equipment repair/maintenance (related to the conveyer system and racks), and non-professional services (reduced resource needs).

## Top Service Examples

**Non-Professional Services** – provides the night loading service for beverages.

**Equipment Repair/Maintenance** – includes providing heating, ventilation, and air conditioning service at stores; design and install conveyer system and racks; maintenance and support for the point of sale system (e.g., Systems Technology Group's maintenance and support for the point of sale system).

**Professional Services** – includes consulting and other professional services (e.g., Array Information Technology's information technology consulting and technical services).

**Building Improvement** – includes electric work, fixing parking lots, and adding/improving security systems at stores.

**Computer Services** – includes computer equipment repairs/maintenance and software licenses/maintenance agreements.

**All Other Services** – includes engineering and architectural services, security services, temporary office staff, etc.

#### **Chapter 4. Feedback on the County's Contracting and Procurement Processes**

OLO conducted interviews with Executive Branch staff between October 2017 and March 2018. During these interviews, OLO sought feedback on department experiences managing contracts, the internal County procurement process, and opportunities for improvement. Common department staff feedback includes:

- **The Office of Procurement works well to assist departments with the procurement process.**

Staff report that Director Branson is moving the Office in the right direction, with Procurement staff responsive to and collaborative with program staff. Additionally, staff note that other positive aspects of the current process include using a team-based approach to contract drafting and holding pre-bid conferences.

- **Opportunities exist to increase flexibility in procuring goods and services and address resource gaps at the department level.**

The majority of departments reported several opportunities to enhance flexibility by expanding available contract methods and standardizing resources across departments. Staff presented the following ideas:

- Organize regulation-specific trainings for contract managers who need in-depth knowledge;
  - Grow Procurement's role as a department resource. Staff indicate that Procurement could serve as a clearinghouse to assist departments with selecting contract methods and increasing collaboration among departments (e.g., use of bridge contracts, bulk purchases, single contracts for similar or same services, or task-ordered contracts for specialized staff);
  - Increase use of opportunity buys that permit departments to take advantage of one-time pricing opportunities (e.g., purchasing orange juice at discount when there is an over production in supply). Current contracts and fixed-prices limit a department's ability to take advantage of savings;
  - Eliminate bids for local small businesses for specialized goods/services that they do not provide. This would remove the potential of having to rebid the contract, saving time.
- **While the use of SharePoint has increased collaboration at the department staff level, the County's procurement process remains heavily paper-based.**

The adoption of SharePoint has increased collaboration by permitting multiple staff to edit documents in real time. For example, DTS can review and edit task orders as they are written to ensure the appropriate scope of work. However, staff report that the end-to-end procurement process is heavily paper-based and burdensome. Procurement requires original signatures on hard copies of contracts and does not accept electronic copies (including scanned copies of original documents). While vendors may require electronic signatures, departments must print a hard copy, obtain appropriate signatures, email a scanned version, and hand deliver a hard copy to Procurement. Also, staff note that while departments have embraced SharePoint as part of the procurement process, Procurement currently does not use this technology to accept contract documents.

## Chapter 5. Findings and Recommendations

This Office of Legislative Oversight (OLO) report reviews the structure and format of contractor pay and staffing requirements in County service contracts and examines trends in County Government dollars awarded for contractual services. This chapter summarizes the major findings of this report and presents a discussion question and recommendation developed by the Office of Legislative Oversight (OLO) based on the findings. This chapter includes two sections:

- **Section A**, Major Report Findings; and
- **Section B**, Discussion Question and Recommendation for Council Action.

### A. Major Report Findings

#### County Contracting

**Finding #1.** In FY17, the Office of Procurement awarded \$1,078.2 billion in contracts for goods, services, or construction, of which professional and non-professional service contracts comprised 64% of total contract dollars awarded.

In FY17, the Office of Procurement awarded \$689.0 million in service contracts (64% of \$1.078.2 billion) – \$424.3 million for professional services contracts and \$264.7 million for non-professional services contracts. County procurement laws establish methods for making purchases, referred to as “source selection” methods. These laws dictate when specific methods must be used, the procedures for each method, and how to evaluate potential bidders or offerors. As shown below, the predominant source selection method varies based on whether the County is purchasing goods, services, or construction. One-third of all service contracts were awarded using Request for Proposals, which balance quality and price to obtain the best value for the County.

**Table 17. FY17 Top Source Selection Methods by Contract Category**  
(\$ in millions)

| Contract Category                | Source Selection Method | Total Dollars Awarded |
|----------------------------------|-------------------------|-----------------------|
| <b>Professional Services</b>     | Request for Proposal    | \$148.9               |
|                                  | Cooperative Procurement | \$146.3               |
|                                  | Grants                  | \$76.3                |
| <b>Non-Professional Services</b> | Request for Proposal    | \$84.5                |
|                                  | Invitation for Bid      | \$66.5                |
|                                  | Public Entity           | \$37.5                |
| <b>Goods</b>                     | Invitation for Bid      | \$27.8                |
|                                  | Request for Proposal    | \$22.9                |
|                                  | Bridge Procurement      | \$16.9                |
| <b>Construction</b>              | Request for Proposal    | \$213.6               |
|                                  | Invitation for Bid      | \$98.7                |

**Finding #2. The County's preferred contract type is a fixed-price contract that pays a contractor a set price for goods, services, or construction and where the price is not affected by variable factors (e.g., increased labor rates or material costs).**

Fixed-price contracts are favored by policymakers because the vendor, not the government, assumes the risk of cost increases. The County's liability is limited to the contract price; if labor or materials costs increase during contract performance, the contractor must absorb the costs. The vendor is also responsible for managing contractor staffing to ensure obligations and performance targets are met. The Office of Procurement does not collect data on the number of contract awards by contract type.

### **Counting County Government Contractors**

**Finding #3. The County currently does not collect and does not require vendors to report data that can be used to track the number of contractors on service contracts or data on contractor wages.**

At present, data on the number of contractors on County service contracts and contractor wages is not currently available due to the following:

- In fixed-price contracts, the burden is on the vendor to meet performance deadlines or metrics, including determining the number of employees servicing the contract. Unless a County Government solicitation defines a staffing count or a vendor provides an employee count (e.g., in a budget summary), a staff count cannot be determined.
- Aside from wage data collected under the County's Wage Requirements Law (WRL), vendors are not required to provide data to the County Government about contract employees or wages.
- The WRL requires vendors to pay a living wage to employees on covered service contracts and provide quarterly payroll reports to the Office of Procurement to ensure compliance. Vendors do not provide a summary of staffing, wages, or wage increases. Further, the Office of Procurement's quarterly and annual reports on the WRL focus on enforcement of the law, not on contractor wages.
- Over 50% of County service contracts do not fall under the WRL. For these contracts, there is no legal mechanism requiring the vendors to submit payroll, wage, or staffing data.
- Data collected under the WRL cannot be used to accurately estimate the number of contract employees under County Government service contracts. While the Office of Procurement estimates that it reviews payroll records for 6,000 to 6,500 contract employees per quarter under the WRL, this estimate is based on a sample of contracts, not provided as part of routine reporting requirements, and does not include contracts that are excluded from WRL reporting requirements.
- Due to data quality issues, OLO was unable to obtain a reliable count of contractors using data from the County's system for issuing and tracking employee, contractor, and volunteer identification cards. OLO found that the County's Identification Card Program lacks established standards for auditing the system to maintain data accuracy.

**Finding #4. Due to security system data quality issues, OLO was unable to obtain a count of contractors using Police Security Services Access Identification card data. OLO found that the Access Identification Card Program lacks established standards for auditing the security access system to maintain data accuracy.**

While this information falls outside the scope of the OLO project, OLO felt it important to address the lack of sound data management to monitor contract employee ID Cards and facility access. Montgomery County Police Department's Security Services Division manages the Access Identification (ID) Card Program. Every County employee, contractor, intern, and volunteer whose position requires access to a County facility is issued an ID card – with visually different ID cards and access levels for employees, contractors, etc. The system data identifies an individual's category (i.e., County employee, contractor, intern, and volunteer), department, and ID card activation date. OLO sought to use ID card data to provide Council with 1) the total number of active contractors (County-wide and by department); 2) the departments with the highest number of contractors; and 3) the length of time a contractor is active. Unfortunately, OLO found that due to the lack of management and oversight of the Access ID Card Program, the Security Services Division could not provide the requested data.

To provide OLO with a count of active contractors, Security Services staff reviewed each ID card entry to determine whether the contractor is currently employed on a County contract. Initially in January, the security system reported over 4,800 active contractor ID cards; this total was reduced to 1,543 active contractor ID cards in March. Staff identified the following issues that resulted in an inflated count of active ID cards:

- Inconsistencies in the system due to contractors and County employees being identified in the same access levels;
- Employees or contractors with multiple ID Cards;
- Multiple entries for the same department name (i.e., the system contains over 95 County departments); and
- Contractors categorized under a project name rather than with the department administering the contract.

OLO identified numerous data accuracy issues in a sample of the contractors, described below in Finding #6.

**Finding #5. Police Security Services Division does not have established procedures to deactivate ID cards when contractors leave County service.**

While the Office of Human Resources (OHR) includes the returning of ID cards on a checklist as part of County Employee Exit Process, data and information that OLO received from the Security Services Division shows variation across departments in the handling of contractor ID cards, with some departments having documented return procedures and some that do not. Unlike OHR's role, which has a central point to manage and oversee County employee records and status, the County presently lacks a similar centralized process to monitor active Contractors. As a result, there are examples of contractors not returning their ID cards when leaving County service resulting in security system accountability issues in determining contractor status.

**Finding #6. Based on OLO’s cursory review of 36 contractor entries from Security Services’ data, OLO found multiple data quality issues.**

From the data provided by Security Service Division staff, OLO performed a cursory review of 36 contractor ID Card entries known to OLO staff, including 25 contractors listed as active with the County Council. Based on this review, OLO determined that the dataset contained multiple data errors where the correction of these errors would change the total number of active contractors with access to County facilities, a count by administering departments, and active dates of ID Cards. These data issues and the issues identified by Security Services staff (see Finding #7) indicate the need for a more comprehensive study to understand the extent of issues with the Access Identification (ID) Card Program. Table 18 below summarizes these data quality issues identified by OLO.

**Table 18. OLO Identified Issues with Contractor Access ID Card Data**

| Identified Issue  | Example(s)  |
|---|---|
| Known contractors with Active ID cards not included in the data           | <ul style="list-style-type: none"> <li>For a County Council contract where ID card access is managed by the Department of Finance, only three of the eight contractors with active ID cards were listed in the data set.</li> </ul>   |
| Active ID cards assigned to contractors no longer working with the County | <ul style="list-style-type: none"> <li>A County Council contractor who left employment in August 2017 was listed as an active ID card holder.</li> </ul>  |
| Contractors-turned-employees still categorized as contractors             | <ul style="list-style-type: none"> <li>Two employees hired initially as contractors then hired into County employee positions were still listed as contractors. One was hired in 2014 and one in 2017.</li> </ul>   |
| Inaccurate departments  | <ul style="list-style-type: none"> <li>The correct departments of two contractors were misidentified. One Department of Correction and Rehabilitation contractor was assigned to the County Council and one Office of Management and Budget contractor assigned to the Department of Transportation.</li> </ul> |
| Inaccurate access ID card dates   | <ul style="list-style-type: none"> <li>Reported ID card activation dates differed from known length of time as County contractors.</li> </ul>   |
| Replaced ID card re-started active date                                   | <ul style="list-style-type: none"> <li>A long-term contractor received a replacement ID card in 2016 and his active date was changed in the system to 2016.</li> </ul>  |

**Finding #7. Routine auditing of the ID Card security system and established checks and balances are lacking. Process improvements are needed to address the management of the security system. Correct levels of staffing and appropriate technology should be ascertained.**

In March 2018, OLO met with the Director of the Security Services Division and staff responsible for managing the Access ID Card Program. OLO did not significantly investigate staffing levels, technology needs or day to day processes. The following are issues to consider moving forward:

- Past issues with overly-broad access to the Access ID card system and data contributed to the current data problems;
- The data issues have resulted in unauthorized individuals having access privileges to County facilities;

- The Security Services Division does not have established procedures to deactivate ID cards when contractors leave County service; and
- There is inconsistent knowledge and application of ID card security procedures by department staff.

### **Contracting Trends**

**Finding #8. County Government operational departments award significantly more contract dollars for construction, goods, and services compared to administrative departments and they procure a higher percentage of professional and non-professional services.**

Operational departments are Executive Branch departments that provide services and administrative departments support the operational departments; OLO used this delineation to help understand County-wide service contract trends. In FY17 operational departments awarded \$305.2M in contracts, nearly tripling total contract dollars awarded by administrative departments.

|                            | <b>Services</b> | <b>Goods</b> | <b>Operating-Related Construction</b> | <b>Total</b> |
|----------------------------|-----------------|--------------|---------------------------------------|--------------|
| Operational Departments    | \$280.0M        | \$21.4M      | \$3.8M                                | \$305.2M     |
| Administrative Departments | \$81.0M         | \$30.2M      | \$0.3M                                | \$111.5M     |

Both types of departments awarded most of their contract dollars through professional and non-professional services contracts – making up 92% of all operational department contract awards compared to 73% of all administrative department awards.

**Finding #9. Contracts for professional services account for the highest percentage of services procured in FY17 at 30%, \$118 million of the \$394.7M. Contracts for professional services include consulting services, transfer center operations, transit and parking operations, automatic traffic enforcement services, financial advisory services, occupational and wellness services, etc.**

Although professional services was the top services contract category County-wide, it was the top category for only 5 out of 13 departments reviewed for FY17. These five larger departments awarded \$16 million or more in service contracts in FY17 – Health and Human Services (HHS), Department of Environmental Protection (DEP), Non-Departmental Accounts (NDA), Department of Technology Services (DTS), and the Montgomery County Police Department (MCPD). The other types of services most contracted for in FY17 were: maintenance agreements (maintenance for fleet, other vehicles, building equipment, snow removal, etc.); recycling (materials recovery and processing; recycling center operations); facilities services/inventory (custodial services, landscaping, electrical repair, carpentry, painting, etc.) and trash hauling/removal (waste transportation and disposal).



Other trends identified in FY17, include:

- **Of all Executive Branch departments reviewed, the Department of Environmental Protection spent the largest percentage of its budget on service contracts (67.3%, or \$80.9M of its approved operating budget of \$120.2M).** DEP is largely dependent on services contracts for transfer center operations, recycling, trash hauling/removal, and stormwater maintenance. Conversely, the Office of Human Resources spent the smallest percentage of its approved budget on services contracts (2.0%, or \$5.1M of its approved operating budget of \$254.1M).
- **From FY12 to FY17, 10 out of the top 13 departments increased spending on service contracts at a higher rate than their approved operating budgets increased.** This may infer that these departments relied more on service contracts from FY12 to FY17, outpacing their respective budget increases.
- **In FY17, the majority of departments used existing requirements contracts (a vendor supplies a good or service as required by the department), as opposed to renewing contracts or awarding new contracts.** In FY17 departments awarded at least 60.3% of their contracting dollars under an existing services contract that established terms, prices, and source of supply. OHR (100%), MCRFS (99.7%), Finance (99.5%), and MCPD (99.2%) awarded the highest percentage of contracting dollars for existing services.
- **The vendors that received the most County dollars in FY17 provided Transfer Station and Resource Recovery Facility operations, health care services, automatic traffic enforcement, and recycling.** These were the County's top contracted services from FY12 to FY17.

## **B. Discussion Question and Recommendation**

This Office of Legislative Oversight report found that the County Government does not have data to allow it to accurately count the number of contractors working for the County or track contractor wages and wage adjustments. Based on this report's findings, this section describes one recommended discussion question and one recommendation for Council discussion/action – aimed at improving collection of contractor staffing and wage data and the County's management of contractor ID cards and facility access.

### **Discussion Question**

**What opportunities exist to increase available data to provide a more robust contracting trend analysis, including contractor staffing counts and wages? What data points would best meet the Council's needs? How could this data be collected?**

This report summarizes County Government contracting trends, including 1) total contract obligations, 2) year-to-year trends, 3) top contracted services, and 4) top vendors. OLO's analysis covered six years (FY12-FY17) and included snapshots of procurement activity for the 13 departments with the highest contractual obligations for services in FY17. However, due to the nature of the County's preferred type of contract (fixed-price contracts) and limited data reporting requirements, the County does not have data that would allow it to determine the size of the contractor workforce or summarize contractor wages and wage increases.

If Council would like to explore options for future contractor data collection efforts, OLO recommends that the Council discuss with Executive Branch staff available options, feasibility of options, and resources required (staffing and costs). While increasing reporting efforts could increase transparency of County Government

spending obligations, OLO notes that additional data collection and reporting requirements may require a long-term, strategic investment and buy-in from Executive Branch staff and vendors. OLO recommends discussing with Executive Branch staff ways to:

- **Collect additional data points to provide a more robust trend analysis and understanding of the County's procurement activity.** Examples of data include:
  - Contract obligations awarded under competitive contracts;
  - The number of offers yielded for competitively-bid contracts;
  - The number of contracts by contract type (i.e., fixed-price, cost reimbursement, requirements, defined quantity contracts, or combination); and
  - Contract obligations by size of vendor's company (e.g., annual revenue).
- **Expand reporting requirements under the County's Wage Reporting Law to collect staffing and wage summaries from covered vendors.** Required reporting under the WRL is limited to ensuring compliance with the County's wage rate. Expanding data reporting requirements could provide data on contractor staffing and wage summaries for the 44% of service contracts covered by the Law.
- **Regularly report an inventory of activities performed under County service contracts.** Examples of data could include: the number of contractors that provide direct services under the contract (expressed as FTEs); contractor wages; function or role provided by the contractor; the County department whose requirements are being fulfilled by the contractor; the funding source for the contract; and fiscal year the contract was funded.

### **Recommendation**

**Request that the County Executive review the County's Access Identification Card Program and ensure that the MCPD Security Services Division implements industry-recommended data management and auditing processes.**

Following a request by OLO for data from the County's Access Identification Card Program from the Security as a way to count active County contractors, MCPD reported that the ID program lacked proper controls and oversight, resulting in extensive data quality and security-related issues. MCPD staff report that:

- Past issues with overly-broad access to the ID card security system and data contributed to the current data quality issues;
- ID card security system access was granted to temporary employees;
- Unauthorized individuals have access privileges to County facilities;
- The Security Services Division does not have established procedures to deactivate ID cards when contractors leave County service;
- There is inconsistent knowledge and application of ID card security procedures by department staff; and
- Improving the security of County facilities will require more staff, increased technology investments, and increased information sharing.

OLO recommends that the County Council ask the County Executive to perform a comprehensive review of the County's Access Identification Card Program to determine the extent of the data and security issues. This review should include an examination of the current program and recommendations for improvements based on current industry-recommended standards for security ID programs. Topics for review could include:

- Centralizing management processes for overseeing Contractor ID cards;
- Program management and staffing;
- Processes and procedures for activating, deactivating, and monitoring ID cards;
- Program funding; and
- Necessary technology improvements.

## **Chapter 6. Agency Comments**

The Office of Legislative Oversight circulated a final draft of this report to the Chief Administrative Officer for Montgomery County. OLO appreciates the time taken by County Government to review the draft report and provide comments.

OLO's final report incorporates technical corrections provided by County staff. The written comments from the County Executive were not available at the printing of this report and will be available in future Council packets.

**List of Appendices**

| <b>Appendix</b> | <b>Title</b>  | <b>Begins at</b> |
|-----------------|---|------------------|
| <b>A</b>        | • General Conditions of Contract between County & Contractor  | ©1               |
| <b>B</b>        | • Requirements for Services Contract - Addendum to The General Conditions of Contract Between County and Contractor | ©8               |
| <b>C</b>        | • Wage Requirements Law Payroll Reporting Form  | ©14              |

## GENERAL CONDITIONS OF CONTRACT BETWEEN COUNTY & CONTRACTOR

### 1. ACCOUNTING SYSTEM AND AUDIT, ACCURATE INFORMATION

The contractor certifies that all information the contractor has provided or will provide to the County is true and correct and can be relied upon by the County in awarding, modifying, making payments, or taking any other action with respect to this contract including resolving claims and disputes. Any false or misleading information is a ground for the County to terminate this contract for cause and to pursue any other appropriate remedy. The contractor certifies that the contractor's accounting system conforms with generally accepted accounting principles, is sufficient to comply with the contract's budgetary and financial obligations, and is sufficient to produce reliable financial information.

The County may examine the contractor's and any first-tier subcontractor's records to determine and verify compliance with the contract and to resolve or decide any claim or dispute arising under this contract. The contractor and any first-tier subcontractor must grant the County access to these records at all reasonable times during the contract term and for 3 years after final payment. If the contract is supported to any extent with federal or state funds, the appropriate federal or state authorities may also examine these records. The contractor must include the preceding language of this paragraph in all first-tier subcontracts.

### 2. AMERICANS WITH DISABILITIES ACT

The contractor agrees to comply with the nondiscrimination requirements of Titles II and III, and other provisions, of the Americans with Disabilities Act of 1990, Pub. Law 101-336, and ADA Amendments Act of 2008, Pub. Law 110-325, as amended, currently found at 42 U.S.C., § 12101, et seq., and 47 U.S.C., ch. 5.

### 3. APPLICABLE LAWS

This contract must be construed in accordance with the laws and regulations of Maryland and Montgomery County. The Montgomery County Procurement Regulations are incorporated by reference into, and made a part of, this contract. In the case of any inconsistency between this contract and the Procurement Regulations, the Procurement Regulations govern. The contractor must, without additional cost to the County, pay any necessary fees and charges, obtain any necessary licenses and permits, and comply with applicable federal, state and local laws, codes and regulations. For purposes of litigation involving this contract, except for contract Disputes discussed in paragraph 8 below, exclusive venue and jurisdiction must be in the Circuit Court for Montgomery County, Maryland or in the District Court of Maryland for Montgomery County.

The prevailing wage law (County Code §11B-33C) applies to construction contracts. Specifically, under County law, a County financed construction contract is subject to the Montgomery County Code regarding compliance with the prevailing wage paid to construction workers, as established for the County by the Maryland State Commissioner of Labor and Industry. Additional information regarding the County's prevailing wage requirements is contained within this solicitation/contract (see the provision entitled "Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor").

Furthermore, certain non-profit and governmental entities may purchase supplies and services, similar in scope of work and compensation amounts provided for in a County contract, using their own contract and procurement laws and regulations, pursuant to the Md. State Finance and Procurement Article, Section 13-101, et. seq.

Contractor and all of its subcontractors must comply with the provisions of County Code §11B-35A and must not retaliate against a covered employee who discloses an illegal or improper action described in §11B-35A. Furthermore, an aggrieved covered employee under §11B-35A is a third-party beneficiary under this Contract, who may by civil action recover compensatory damages including interest and reasonable attorney's fees, against the contractor or one of its subcontractors for retaliation in violation of that Section.

Contractor and all of its subcontractors must provide the same benefits to an employee with a domestic partner as provided to an employee with a spouse, in accordance with County Code §11B-33D. An aggrieved employee, is a third-party beneficiary who may, by civil action, recover the cash equivalent of any benefit denied in violation of §11B-33D or other compensable damages.

The contractor agrees to comply with the requirements of the Displaced Service Workers Protection Act, which appears in County Code, Chapter 27, Human Rights and Civil Liberties, Article X, Displaced Service Workers Protection Act, §§ 27-64 through 27-66.

### 4. ASSIGNMENTS AND SUBCONTRACTS

The contractor must not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by the Director, Office of Procurement. Unless performance is separately and expressly waived in writing by the Director, Office of Procurement, an assignment does not release the contractor from responsibility for performance of this contract. Unless otherwise provided in the contract, the contractor may not contract with any other party for furnishing any of the materials or services herein contracted for without the written approval of the Director, Office of Procurement. Any subcontract for any work hereunder must comport with the terms of this Contract and County law, and must include any other terms and conditions that the County deems necessary to protect its interests.

### 5. CHANGES

The Director, Office of Procurement, may unilaterally change the work, materials and services to be performed. The change must be in writing and within the general scope of the contract. The contract will be modified to reflect any time or money adjustment the contractor is entitled to receive. Contractor must bring to the Contract Administrator, in writing, any claim about an adjustment in time or money resulting from a change, within 30 days from the date the Director, Office of Procurement, issued the change in work, or the claim is waived. Any failure to agree upon a time or money adjustment must be resolved under the "Disputes" clause of this contract. The contractor must proceed with the prosecution of the work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided in this section.

### 6. CONTRACT ADMINISTRATION

A. The contract administrator, subject to paragraph B below, is the Department representative designated by the Director, Office of Procurement, in writing and is authorized to:

- (1) serve as liaison between the County and the contractor;
- (2) give direction to the contractor to ensure satisfactory and complete performance;
- (3) monitor and inspect the contractor's performance to ensure acceptable timeliness and quality;
- (4) serve as records custodian for this contract, including wage and prevailing wage requirements;
- (5) accept or reject the contractor's performance;
- (6) furnish timely written notice of the contractor's performance failures to the Director, Office of Procurement, and to the County Attorney, as appropriate;
- (7) prepare required reports;
- (8) approve or reject invoices for payment;
- (9) recommend contract modifications or terminations to the Director, Office of Procurement;
- (10) issue notices to proceed; and
- (11) monitor and verify compliance with any MFD Performance Plan.

- B. The contract administrator is NOT authorized to make determinations (as opposed to recommendations) that alter, modify, terminate or cancel the contract, interpret ambiguities in contract language, or waive the County's contractual rights.

#### 7. COST & PRICING DATA

Chapter 11B of the County Code and the Montgomery County Procurement Regulations require that cost & pricing data be obtained from proposed awardees/contractors in certain situations. The contractor guarantees that any cost & pricing data provided to the County will be accurate and complete. The contractor grants the Director, Office of Procurement, access to all books, records, documents, and other supporting data in order to permit adequate evaluation of the contractor's proposed price(s). The contractor also agrees that the price to the County, including profit or fee, may, at the option of the County, be reduced to the extent that the price was based on inaccurate, incomplete, or noncurrent data supplied by the contractor.

#### 8. DISPUTES

Any dispute arising under this contract that is not disposed of by agreement must be decided under the Montgomery County Code and the Montgomery County Procurement Regulations. Pending final resolution of a dispute, the Contractor must proceed diligently with contract performance. Subject to subsequent revocation or alteration by the Director, Office of Procurement, the head of the County department, office or agency ("Department Head") of the contract administrator is the designee of the Director, Office of Procurement, for the purpose of dispute resolution. The Department Head, or his/her designee, must forward to the Director, Office of Procurement, a copy of any written resolution of a dispute. The Department Head may delegate this responsibility to another person (other than the contract administrator). A contractor must notify the contract administrator of a claim in writing, and must attempt to resolve a claim with the contract administrator prior to filing a dispute with the Director, Office of Procurement or designee. The contractor waives any dispute or claim not made in writing and received by the Director, Office of Procurement, within 30 days of the event giving rise to the dispute or claim, whether or not the contract administrator has responded to a written notice of claim or resolved the claim. The Director, Office of Procurement, must dismiss a dispute that is not timely filed. A dispute must be in writing, for specific relief, and any requested relief must be fully supported by affidavit of all relevant calculations, including cost and pricing information, records, and other information. At the County's option, the contractor agrees to be made a party to any related dispute involving another contractor.

#### 9. DOCUMENTS, MATERIALS AND DATA

All documents materials or data developed as a result of this contract are the County's property. The County has the right to use and reproduce any documents, materials, and data, including confidential information, used in the performance of, or developed as a result of, this contract. The County may use this information for its own purposes, including reporting to state and federal agencies. The contractor warrants that it has title to or right of use of all documents, materials or data used or developed in connection with this contract. The contractor must keep confidential all documents, materials, and data prepared or developed by the contractor or supplied by the County.

#### 10. DURATION OF OBLIGATION

The contractor agrees that all of contractor's obligations and warranties, including all requirements imposed by the Minority Owned Business Addendum to these General Conditions, if any, which directly or indirectly are intended by their nature or by implication to survive contractor performance, do survive the completion of performance, termination for default, termination for convenience, or termination by mutual consent of the contract.

#### 11. ENTIRE AGREEMENT

There are no promises, terms, conditions, or obligations other than those contained in this contract. This contract supersedes all communications, representations, or agreements, either verbal or written, between the parties hereto, with the exception of express warranties given to induce the County to enter into the contract.

#### 12. ETHICS REQUIREMENTS/POLITICAL CONTRIBUTIONS

The contractor must comply with the ethics provisions contained in Chapters 11B and 19A, Montgomery County Code, which include the following:

- (a) a prohibition against making or offering to make certain gifts. Section 11B-51(a).
- (b) a prohibition against kickbacks. Section 11B-51(b).
- (c) a prohibition against a person engaged in a procurement from employing or offering to employ a public employee. Section 11B-52 (a).
- (d) a prohibition against a contractor that is providing a recommendation to the County from assisting another party or seeking to obtain an economic benefit beyond payment under the contract. Section 11B-52 (b).
- (e) a restriction on the use of confidential information obtained in performing a contract. Section 11B-52 (c).
- (f) a prohibition against contingent fees. Section 11B-53.

Furthermore, the contractor specifically agrees to comply with Sections 11B-51, 11B-52, 11B-53, 19A-12, and/or 19A-13 of the Montgomery County Code.

In addition, the contractor must comply with the political contribution reporting requirements currently codified under the Election Law at Md. Code Ann., Title 14.

#### 13. GUARANTEE

- A. Contractor guarantees for one year from acceptance, or for a longer period that is otherwise expressly stated in the County's written solicitation, all goods, services, and construction offered, including those used in the course of providing the goods, services, and/or construction. This includes a guarantee that all products offered (or used in the installation of those products) carry a guarantee against any and all defects for a minimum period of one year from acceptance, or for a longer period stated in the County's written solicitation. The contractor must correct any and all defects in material and/or workmanship that may appear during the guarantee period, or any defects that occur within one (1) year of acceptance even if discovered more than one (1) year after acceptance, by repairing, (or replacing with new items or new materials, if necessary) any such defect at no cost to the County and to the County's satisfaction.
- B. Should a manufacturer's or service provider's warranty or guarantee exceed the requirements stated above, that guarantee or warranty will be the primary one used in the case of defect. Copies of manufacturer's or service provider's warranties must be provided upon request.
- C. All warranties and guarantees must be in effect from the date of acceptance by the County of the goods, services, or construction.
- D. The contractor guarantees that all work shall be accomplished in a workmanlike manner, and the contractor must observe and comply with all Federal, State, County and local laws, ordinances and regulations in providing the goods, and performing the services or construction.
- E. Goods and materials provided under this contract must be of first quality, latest model and of current manufacture, and must not be of such age or so deteriorated as to impair their usefulness or safety. Items that are used, rebuilt, or demonstrator models are unacceptable, unless specifically requested by the County in the Specifications.

#### 14. HAZARDOUS AND TOXIC SUBSTANCES

Manufacturers and distributors are required by federal "Hazard Communication" provisions (29 CFR 1910.1200), and the Maryland "Access to Information About Hazardous and Toxic Substances" Law, to label each hazardous material or chemical container, and to provide Material Safety Data Sheets to the purchaser. The

contractor must comply with these laws and must provide the County with copies of all relevant documents, including Material Safety Data Sheets, prior to performance of work or contemporaneous with delivery of goods.

**15. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLIANCE**

In addition to the provisions stated above in Section 3. "Applicable Laws," contractor must comply with all requirements in the federal Health Insurance Portability and Accountability Act (HIPAA), to the extent that HIPAA is applicable to this contract. Furthermore, contractor must enter into the County's standard Business Associate Agreement or Qualified Service Organization Agreement when contractor or the County, as part of this contract, may use or disclose to one another, to the individual whose health information is at issue, or to a third-party, any protected health information that is obtained from, provided to, made available to, or created by, or for, the contractor or the County.

**16. IMMIGRATION REFORM AND CONTROL ACT**

The contractor warrants that both the contractor and its subcontractors do not, and shall not, hire, recruit or refer for a fee, for employment under this contract or any subcontract, an alien while knowing the alien is an unauthorized alien, or any individual without complying with the requirements of the federal Immigration and Nationality laws, including any verification and record keeping requirements. The contractor further assures the County that, in accordance with those laws, it does not, and will not, discriminate against an individual with respect to hiring, recruitment, or referral for a fee, of an individual for employment or the discharge of an individual from employment, because of the individual's national origin or, in the case of a citizen or prospective citizen, because of the individual's citizenship status.

**17. INCONSISTENT PROVISIONS**

Notwithstanding any provisions to the contrary in any contract terms or conditions supplied by the contractor, this General Conditions of Contract document supersedes the contractor's terms and conditions, in the event of any inconsistency.

**18. INDEMNIFICATION**

The contractor is responsible for any loss, personal injury, death and any other damage (including incidental and consequential) that may be done or suffered by reason of the contractor's negligence or failure to perform any contractual obligations. The contractor must indemnify and save the County harmless from any loss, cost, damage and other expenses, including attorney's fees and litigation expenses, suffered or incurred due to the contractor's negligence or failure to perform any of its contractual obligations. If requested by the County, the contractor must defend the County in any action or suit brought against the County arising out of the contractor's negligence, errors, acts or omissions under this contract. The negligence of any agent, subcontractor or employee of the contractor is deemed to be the negligence of the contractor. For the purposes of this paragraph, County includes its boards, agencies, agents, officials and employees.

**19. INDEPENDENT CONTRACTOR**

The contractor is an independent contractor. The contractor and the contractor's employees or agents are not agents of the County.

**20. INSPECTIONS**

The County has the right to monitor, inspect and evaluate or test all supplies, goods, services, or construction called for by the contract at all reasonable places (including the contractor's place of business) and times (including the period of preparation or manufacture).

**21. INSURANCE**

Prior to contract execution by the County, the proposed awardee/contractor must obtain at its own cost and expense the insurance specified in the applicable table (See Tables A and B) or attachment to these General Conditions, with one or more insurance company(s) licensed or qualified to do business in the State of Maryland and acceptable to the County's Division of Risk Management. Contractor must keep this insurance in full force and effect during the term of this contract, including all extensions. Unless expressly provided otherwise, Table A is applicable to this contract. The insurance must be evidenced by one or more Certificate(s) of Insurance and, if requested by the County, the proposed awardee/contractor must provide a copy of any and all insurance policies to the County. At a minimum, the proposed awardee/contractor must submit to the Director, Office of Procurement, one or more Certificate(s) of Insurance prior to award of this contract, and prior to any contract modification extending the term of the contract, as evidence of compliance with this provision. The contractor's insurance must be primary. Montgomery County, MD, including its officials, employees, agents, boards, and agencies, must be named as an additional insured on all liability policies. Thirty days written notice to the County of cancellation or material change in any of the policies is required, unless a longer period is required by applicable law. In no event may the insurance coverage be less than that shown on the applicable table, attachment, or contract provision for required insurance. The Director, Office of Procurement, may waive the requirements of this section, in whole or in part.



TABLE A. - INSURANCE REQUIREMENTS  
(See Paragraph #21 Under the General Conditions of Contract  
Between County and Contractor)

CONTRACT DOLLAR VALUES (IN \$1,000's)

|  | <u>Up to 50</u> | <u>Up to 100</u> | <u>Up to 1,000</u> | <u>Over 1,000</u> |
|--|-----------------|------------------|--------------------|-------------------|
| Workers Compensation (for<br>contractors with employees)   |                 |                  |                    |                   |
| Bodily Injury by<br>Accident (each)  | 100             | 100              | 100                | See               |
| Disease (policy limits)  | 500             | 500              | 500                | Attachment        |
| Disease (each employee)  | 100             | 100              | 100                |                   |
| Commercial General Liability<br>minimum combined single limit<br>for bodily injury and property<br>damage per occurrence, including<br>contractual liability, premises<br>and operations, and independent<br>contractors | 300             | 500              | 1,000              | See<br>Attachment |
| Minimum Automobile Liability<br>(including owned, hired and non-<br>owned automobiles)   |                 |                  |                    |                   |
| Bodily Injury<br>each person   | 100             | 250              | 500                | See               |
| each occurrence  | 300             | 500              | 1,000              | Attachment        |
| Property Damage<br>each occurrence   | 300             | 300              | 300                |                   |
| Professional Liability*<br>for errors, omissions<br>and negligent acts, per<br>claim and aggregate, with<br>one year discovery period and<br>maximum deductible of \$25,000  | 250             | 500              | 1,000              | See<br>Attachment |

Certificate Holder  
Montgomery County Maryland (Contract #)  
Office of Procurement  
Rockville Center  
255 Rockville Pike, Suite 180  
Rockville, Maryland 20850-4166

\*Professional services contracts only

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TABLE B. - INSURANCE REQUIREMENTS  
(See Paragraph #21 Under the General Conditions of Contract  
Between County and Contractor)

|  | <u>Up to 50</u> | <u>Up to 100</u> | <u>Up to 1,000</u> | <u>Over<br/>1,000</u> |
|--|-----------------|------------------|--------------------|-----------------------|
| Commercial General<br>Liability minimum<br>combined single limit<br>for bodily injury and property<br>damage per occurrence, including<br>contractual liability, premises<br>and operations, independent<br>contractors, and product liability | 300             | 500              | 1,000              | See<br>Attachment     |

Certificate Holder  
Montgomery County Maryland (Contract #)  
Office of Procurement  
Rockville Center  
255 Rockville Pike, Suite 180  
Rockville, Maryland 20850-4166

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## 22. INTELLECTUAL PROPERTY APPROVAL AND INDEMNIFICATION - INFRINGEMENT

If contractor will be preparing, displaying, publicly performing, reproducing, or otherwise using, in any manner or form, any information, document, or material that is subject to a copyright, trademark, patent, or other property or privacy right, then contractor must: obtain all necessary licenses, authorizations, and approvals related to its use; include the County in any approval, authorization, or license related to its use; and indemnify and hold harmless the County related to contractor's alleged infringing or otherwise improper or unauthorized use. Accordingly, the contractor must protect, indemnify, and hold harmless the County from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions, and attorneys' fees and the costs of the defense of the County, in any suit, including appeals, based upon or arising out of any allegation of infringement, violation, unauthorized use, or conversion of any patent, copyright, trademark or trade name, license, proprietary right, or other related property or privacy interest in connection with, or as a result of, this contract or the performance by the contractor of any of its activities or obligations under this contract.

## 23. NON-CONVICTION OF BRIBERY

The contractor hereby declares and affirms that, to its best knowledge, none of its officers, directors, or partners or employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery, or conspiracy to bribe under any federal, state, or local law.

## 24. NON-DISCRIMINATION IN EMPLOYMENT

The contractor agrees to comply with the non-discrimination in employment policies and/ or provisions prohibiting unlawful employment practices in County contracts as required by Section 11B-33 and Section 27-19 of the Montgomery County Code, as well as all other applicable state and federal laws and regulations regarding employment discrimination.

The contractor assures the County that, in accordance with applicable law, it does not, and agrees that it will not, discriminate in any manner on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, or sexual orientation.

The contractor must bind its subcontractors to the provisions of this section.

## 25. PAYMENTS

No payment by the County may be made, or is due, under this contract, unless funds for the payment have been appropriated and encumbered by the County. Under no circumstances will the County pay the contractor for legal fees. The contractor must not proceed to perform any work (provide goods, services, or construction) prior to receiving written confirmation that the County has appropriated and encumbered funds for that work. If the contractor fails to obtain this verification from the Office of Procurement prior to performing work, the County has no obligation to pay the contractor for the work.

If this contract provides for an additional contract term for contractor performance beyond its initial term, continuation of contractor's performance under this contract beyond the initial term is contingent upon, and subject to, the appropriation of funds and encumbrance of those appropriated funds for payments under this contract. If funds are not appropriated and encumbered to support continued contractor performance in a subsequent fiscal period, contractor's performance must end without further notice from, or cost to, the County. The contractor acknowledges that the County Executive has no obligation to recommend, and the County Council has no obligation to appropriate, funds for this contract in subsequent fiscal years. Furthermore, the County has no obligation to encumber funds to this contract in subsequent fiscal years, even if appropriated funds may be available. Accordingly, for each subsequent contract term, the contractor must not undertake any performance under this contract until the contractor receives a purchase order or contract amendment from the County that authorizes the contractor to perform work for the next contract term.

The County is expressly permitted to pay the vendor for any or all goods, services, or construction under the contract through either a procurement card ("p-card") or a Single Use Account("SUA") method of payment, if the contractor accepts the noted payment method from any other person. In that event, the County reserves the right to pay any or all amounts due under the contract by using either a p-card (except when a purchase order is required) or a SUA method of payment, and the contractor must accept the County's p-card or a SUA method of payment, as applicable. Under this paragraph, contractor is prohibited from charging or requiring the County to pay any fee, charge, price, or other obligation for any reason related to or associated with the County's use of either a p-card or a SUA method of payment.

## 26. PERSONAL PROPERTY

All furniture, office equipment, equipment, vehicles, and other similar types of personal property specified in the contract, and purchased with funds provided under the contract, become the property of the County upon the end of the contract term, or upon termination or expiration of this contract, unless expressly stated otherwise.

## 27. PROTECTION OF PERSONAL INFORMATION BY GOVERNMENT AGENCIES

In any contract under which Contractor is to perform services and the County may disclose to Contractor personal information about an individual, as defined by State law, Contractor must implement and maintain reasonable security procedures and practices that: (a) are appropriate to the nature of the personal information disclosed to the Contractor; and (b) are reasonably designed to help protect the personal information from unauthorized access, use, modification, disclosure, or destruction. Contractor's requirement to implement and maintain reasonable security practices and procedures must include requiring any third-party to whom it discloses personal information that was originally disclosed to Contractor by the County to also implement and maintain reasonable security practices and procedures related to protecting the personal information. Contractor must notify the County of a breach of the security of a system if the unauthorized acquisition of an individual's personal information has occurred or is reasonably likely to occur, and also must share with the County all information related to the breach. Contractor must provide the above notification to the County as soon as reasonably practicable after Contractor discovers or is notified of the breach of the security of a system. Md. Code Ann., State Gov't. § 10-1301 through 10-1308 (2013).

## 28. TERMINATION FOR DEFAULT

The Director, Office of Procurement, may terminate the contract in whole or in part, and from time to time, whenever the Director, Office of Procurement, determines that the contractor is:

- (a) defaulting in performance or is not complying with any provision of this contract;
- (b) failing to make satisfactory progress in the prosecution of the contract; or
- (c) endangering the performance of this contract.

The Director, Office of Procurement, will provide the contractor with a written notice to cure the default. The termination for default is effective on the date specified in the County's written notice. However, if the County determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the County may terminate the contract immediately upon issuing oral or written notice to the contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or the contract, the contractor must compensate the County for additional costs that foreseeably would be incurred by the County, whether the costs are actually incurred or not, to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.

## 29. TERMINATION FOR CONVENIENCE

This contract may be terminated by the County, in whole or in part, upon written notice to the contractor, when the County determines this to be in its best interest. The termination for convenience is effective on the date specified in the County's written notice. Termination for convenience may entitle the contractor to payment for

reasonable costs allocable to the contract for work or costs incurred by the contractor up to the date of termination. The contractor must not be paid compensation as a result of a termination for convenience that exceeds the amount encumbered to pay for work to be performed under the contract.

30. TIME

Time is of the essence.

31. WORK UNDER THE CONTRACT

Contractor must not commence work under this contract until all conditions for commencement are met, including execution of the contract by both parties, compliance with insurance requirements, encumbrance of funds, and issuance of any required notice to proceed.

32. WORKPLACE SAFETY

The contractor must ensure adequate health and safety training and/or certification, and must comply with applicable federal, state and local Occupational Safety and Health laws and regulations.

**THIS FORM MUST NOT BE MODIFIED WITHOUT THE PRIOR APPROVAL OF THE OFFICE OF THE COUNTY ATTORNEY.**

**Requirements for Services Contract**  
**Addendum to The General Conditions of Contract Between County and Contractor**

- A. This contract is subject to the Wage Requirements Law, found at Section 11B-33A of the Montgomery County Code (“WRL” or “11B-33A”). A County contract for the procurement of services must require the contractor and any of its subcontractors to comply with the WRL, subject to the exceptions for particular contractors noted in 11B-33A (b) and for particular employees noted in 11B-33A (f).
- B. Conflicting requirements (11B-33A (h)): If any federal, state, or County law or regulation requires payment of a higher wage, that law or regulation controls. For an existing County Contract, if an applicable collective bargaining agreement (CBA) that existed prior to May 10, 2016, governs the parties, then that CBA controls. If the term of the CBA mentioned in the preceding sentence ends during the Contract, the WRL will then control.
- C. A nonprofit organization that is exempt from the WRL under 11B-33A (b)(3), must specify, in each bid or proposal, the wage the organization intends to pay to those employees who will perform direct, measurable work under the contract, and any health insurance coverage the organization intends to provide to those employees. Section 11B-33A (c)(2).
- D. A contractor must not split or subdivide a contract, pay an employee through a third party, or treat an employee as a subcontractor or independent contractor, to avoid the imposition of any requirement in 11B-33A. Section 11B-33A (c)(3).
- E. Each contractor and subcontractor covered under the WRL must: certify that it is aware of and will comply with the applicable wage requirements; keep and submit any records necessary to show compliance; and conspicuously post notices approved and/or supplied by the County, informing employees of the requirements in 11B-33A. Section 11B-33A (i).
- F. An employer must comply with the WRL during the initial term of the contract and all subsequent renewal periods, and must pay the adjusted wage rate increase required under 11B-33A (e)(2), if any, which is effective July 1 of each year. The County will adjust the wage rate by the annual average increase in the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or successor index, for the previous calendar year and must calculate the adjustment to the nearest multiple of 5 cents. Section 11B-33A (e)(2).
- G. An employer must not discharge or otherwise retaliate against an employee for asserting any right, or filing a complaint of a violation, under the WRL. Section 11B-33A (i)(3).
- H. The sanctions under Section 11B-33 (b), which apply to noncompliance with nondiscrimination requirements, apply with equal force and scope to noncompliance with the wage requirements of the WRL. Section 11B-33A (i)(4).
- I. In the event of a breach of this contract as a result of a contractor’s or subcontractor’s violation of the WRL, the County may seek its available remedies, which include but are not limited to liquidated damages, withholding of payment, and recoupment of audit costs that are described below. The Contractor is jointly and severally liable for any noncompliance by a subcontractor. An aggrieved employee, as a third-party beneficiary, may by civil action against the violating Contractor or subcontractor enforce the payment of wages due under the WRL and recover from the Contractor or subcontractor any unpaid wages with interest, a reasonable attorney’s fee, and damages for any retaliation by the Contractor or subcontractor arising from the employee asserting any right, including filing a complaint under the WRL. Section 11B-33A (i)(5). Furthermore, the contractor expressly acknowledges that the County may assess liquidated damages against the Contractor in the event that it, as a covered employer, fails to pay the required wage, or violates the wage reporting or payroll records reporting requirement found at 11B-33A (g), including its providing late or inaccurate payroll records.

(i) Liquidated Damages

The County may assess liquidated damages for any noncompliance by contractor or its subcontractor at the rate of 1% per day of the total contract amount, or the estimated annual contract value of a requirements contract, for each day of the violation. This liquidated damages amount includes the amount of any unpaid wages, with interest. The Contractor must pay to the County liquidated damages noted above, in addition to any other remedies available to the County. Contractor and County acknowledge that damages that would result to the County as a result of a breach under the WRL are difficult to reasonably ascertain, and that the liquidated damages provided for in this paragraph is a fair and reasonable estimate of damages the County would incur as a result of contractor's or subcontractor's violation of the WRL.

(ii) Withholding of Payment

If the Director determines that a provision of the WRL has been violated, the Director must issue a written decision, including imposing appropriate sanctions and assessing liquidated damages (as outlined above) and audit costs (as outlined below), and may withhold from payment due the contractor, pending a final decision, an amount sufficient to: (a) pay each employee of the contractor or subcontractor the full amount of wages due under the WRL; (b) reimburse the County for audit costs; and (c) satisfy a liability of a contractor or subcontractor for liquidated damages.

(iii) Audit Costs

If the County determines, as a result of a WRL audit, that the Contractor has violated requirements of the WRL, the Contractor must reimburse to the County the cost incurred by the County in conducting the audit. Section 11B-33A (i)(2)(C).

- J. The County must conduct, and the contractor or subcontractor must comply with, random or regular audits to assure compliance with the WRL. Section 11B-33A (i)(2). The Director may conduct an on-site inspection(s) for the purpose of determining compliance. Some of the documents that may be required during an audit are listed on the Wage Requirements Law FAQ web page:  
<http://www.montgomerycountymd.gov/PRO/DBRC/WRL.html>
- K. The Contractor is in breach of this Contract if the Contractor fails to submit timely documentation demonstrating compliance with the WRL to the satisfaction of the Director, including: the Wage Requirements Law Payroll Report Form (PMMD-183), which is required to be submitted by the 14<sup>th</sup> day of the month following the end of each quarter (January, April, July, October); documents requested in conjunction with a random or regular audit by the County; or, documents otherwise requested by the Director. Section 11B-33A (g)(2).

If a contractor or subcontractor fails to submit, or is late in submitting, copies of any payroll record or other report required to be submitted under the WRL, the County may deem invoices unacceptable until the contractor or subcontractor provides the required records or reports, and may postpone processing payments due under the contract or under an agreement to finance the contract.

For any questions, please contact the Wage Requirements Law Program Manager at 240-777-9918 or [WRL@montgomerycountymd.gov](mailto:WRL@montgomerycountymd.gov).

### **Wage Requirements Law Certification**

(Montgomery County Code, Section 11B-33A)

|                |  |            |  |          |  |
|----------------|--|------------|--|----------|--|
| Business Name  |  |            |  |          |  |
| Address        |  |            |  |          |  |
| City           |  | State      |  | Zip Code |  |
| Phone Number   |  | Fax Number |  |          |  |
| E-Mail Address |  |            |  |          |  |

Provide, in the spaces below, the contact name and information of the individual designated by your firm to monitor your compliance with the County's Wage Requirements Law, unless exempt under Section 11B-33A (b) (see Section B. below):

|                |  |            |  |
|----------------|--|------------|--|
| Contact Name   |  | Title      |  |
| Phone Number   |  | Fax Number |  |
| E-mail Address |  |            |  |

In the event that you, the "Offeror," are awarded the contract and become a Contractor, YOU MUST MARK ☒ or ☒ in ALL BOXES BELOW that apply.

☐ A. Wage Requirements Compliance

This Contractor, as a "covered employer", must comply with the requirements under Montgomery County Code Section 11B-33A, "Wage Requirements" ("Wage Requirements Law" or "WRL"). Contractor and its subcontractors must pay all employees not exempt under the WRL, and who perform direct measurable work for the County, the required gross wage rate effective at the time the work is performed. For employees who are not paid an hourly wage, Contractor's compliance with the WRL must be measured by dividing the amount paid to the employee each pay period by the number of hours worked by that employee during each pay period. A covered employer must not make any deduction for any item necessary for an employee to perform the essential job function unless the deduction is permitted by Executive Regulation. The offer price(s) submitted under this solicitation include(s) sufficient funds to meet the requirements of the WRL. A "covered employer" must submit, within 14 days after the end of each quarter (by the 14th of January, April, July, and October, for the quarter ending the preceding month), certified payroll records for each payroll period and for all employees of the contractor or a subcontractor performing services under the County contract governed by the WRL. The payroll records must contain a statement signed by the contractor or subcontractor certifying that the payroll records are correct and the wage rates paid are not less than those required by the WRL. These payroll records must include the following: name, address and telephone number of the contractor or subcontractor; the name and location of the job; and each employee's name, current home address, daily straight time and overtime hours, total straight time and overtime hours for the payroll period, rate of pay, fringe benefits by type and amount, gross wages, race and gender of the employee, and the employer and the employee share of any health insurance premium provided to the employee. The Contractor must ensure that **NO** Social Security number of any person, other than the last four digits, is included on the quarterly report. A sample, blank Payroll Report Form, for your use and completion, can be found at:

<http://www.montgomerycountymd.gov/PRO/DBRC/WRL.html> . The above must be submitted to the

Division of Business Relations and Compliance, Attn: Wage Requirements Law Program Manager  
(preferably via email to [WRL@montgomerycountymd.gov](mailto:WRL@montgomerycountymd.gov)),

Each Contractor must: keep payroll records covering work performed on a contract covered by the WRL for not less than 5 years after the work is completed; and, subject to reasonable notice, permit the County to inspect the payroll records at any reasonable time and as often as the County deems necessary. If the Contractor or subcontractor fails to submit, or is late in submitting, copies of any payroll record or other report required to be submitted under the WRL, the County may deem invoices unacceptable until the Contractor or subcontractor provides the required records or reports, and may postpone processing payments due under the contract or under an agreement to finance the contract. A violation of the WRL, including the late submission or non-submission of the information noted above, may result in action by the County, including: (a) withholding contract payments, reducing payment amounts, or otherwise assessing damages against Contractor, in an amount sufficient to: (i) pay each employee of the Contractor or subcontractor the full amount of wages due under the WRL; (ii) reimburse the County for audit costs; or (iii) satisfy a liability of a contractor or subcontractor for liquidated damages; (b) terminating the contract; or, (c) otherwise taking action to enforce the contract or the WRL. Violation of the WRL may also result in a finding of non-responsibility for a future contract, or may form the basis for debarment or suspension.

B. Exemption Status (if applicable)

This Contractor is exempt from Section 11B-33A, "Wage Requirements," because it is:

- ☐ 1. Reserved – [Intentionally left blank].
- ☐ 2. a contractor who, at the time a contract is signed, has received less than \$50,000 from the County in the most recent 12-month period, and will be entitled to receive less than \$50,000 from the County under that contract in the next 12-month period. Section 11B-33A (b)(1).
- ☐ 3. a public entity. Section 11B-33A (b)(2).
- ☐ 4. a non-profit organization that has qualified for an exemption from federal income taxes under Section 501(c)(3) of the Internal Revenue Code. Section 11B-33A (b)(3) (**must complete item C below**).
- ☐ 5. an employer expressly precluded from complying with the WRL by the terms of any federal or state law, contract, or grant. Section 11B-33A (b)(7) (**must specify the law, or furnish a copy of the contract or grant**).

☐ C. Nonprofit Wage & Health Information

This Contractor is a non-profit organization that is exempt from coverage under Section 11B-33A (b)(3). Accordingly, the contractor has completed the 501 (c)(3) Nonprofit Organization's Employee's Wage and Health Insurance Form, which is attached. See Section 11B-33A (c)(2). Also, the contractor must provide proof of its 501(c)(3) status (i.e. Letter from the IRS).

☐ D. Nonprofit's Comparison Price(s) (if desired)

This Contractor is a non-profit organization that is opting to pay its covered employees the hourly rate specified in the wage requirements. Accordingly, Contractor is duplicating the blanket-cost quotation sheet on which it is submitting its price(s) in the Solicitation, and is submitting on this duplicate form its price(s) to the County had it not opted to pay its employees the hourly rate specified in the WRL. For proposal evaluation purposes, this price(s) will be compared to price(s) of another nonprofit organization(s) that is paying its employees an amount consistent with its exemption from paying the hourly rate under the WRL. This revised information on the duplicate cost sheet must be clearly marked as your



nonprofit organization comparison price(s). In order for the County to compare your price(s), the revised information on the duplicate cost sheet must be submitted with your offer on or before the offer opening date, and must show how the difference between your nonprofit organization price(s) and other organization comparison price(s) was calculated. Section 11B-33A (c)(2).

☐

E. Sole Proprietorship

Sole Proprietorships are subject to the WRL. In order to be excused from the posting and reporting requirements of the WRL, the individual who is the sole proprietor must sign the certifications below in order to attest to the fact that the Sole Proprietorship:

- (1) is aware of, and will comply with, the WRL, as applicable;
- (2) has no employee other than the sole proprietor; and
- (3) will inform the Montgomery County Division of Business Relations and Compliance if the sole proprietor employs any worker other than the sole proprietor.

**Contractor Certification**

CONTRACTOR SIGNATURE: Contractor submits this certification form in accordance with Section 11B-33A of the Montgomery County Code. Contractor certifies that it, and any and all of its subcontractors that perform services under the resultant contract with the County, adhere to Section 11B-33A of the Montgomery County Code.

|                          |  |                               |  |
|--------------------------|--|-------------------------------|--|
| Authorized<br>Signature  |  | Title of<br>Authorized Person |  |
| Typed or<br>Printed Name |  | Date                          |  |

## 501(c)(3) Nonprofit Organization's Employee's Wage and Health Insurance Form

|               |  |            |  |          |  |
|---------------|--|------------|--|----------|--|
| Business Name |  |            |  |          |  |
| Address       |  |            |  |          |  |
| City          |  | State      |  | Zip Code |  |
| Phone Number  |  | Fax Number |  | E-Mail   |  |

Please provide below the employee labor category of each employee(s) who will perform direct measurable work under this contract, the hourly wage the organization pays for that employee labor category, and any health insurance the organization intends to provide for that employee labor category. This information is collected for statistical reporting purposes only.

[illegible]

\* IF NO HEALTH INSURANCE PLAN IS PROVIDED PLEASE STATE "NONE".

# OFFICE OF PROCUREMENT

## Wage Requirements Law Payroll Report Form



### INSTRUCTIONS FOR USE:

Submit Quarterly (14 days after the quarter ends) for the prior quarter. If no work was performed for that quarter please mark "NO WORK WAS PERFORMED". If you are submitting the payroll register, please redact the SSNs.

Return the form to: [WRL@montgomerycountymd.gov](mailto:WRL@montgomerycountymd.gov)

OR Wage Requirements Law Program Manager, Office of Procurement  
255 Rockville Pike, Suite 180, Rockville, MD 20850

### CONTRACTOR/SUBCONTRACTOR CONTACT INFORMATION

Company: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contract Number: \_\_\_\_\_

Begin Pay Period: \_\_\_\_\_ End Pay Period: \_\_\_\_\_

| Name<br>Employee | Home Address | Work location |   | Hours Worked |   |    |   |    |   |    | Total<br>Hours | Pay<br>Rate | Gross<br>Wages | Race<br><i>See<br/>NOTES</i> | Gender<br><i>See NOTES</i> | Fringe benefits<br>by type and<br>amount | Health Insurance<br>Premium<br>(Employer Share %) | Health Insurance<br>Premium<br>(Employee Share %) |
|------------------|--------------|---------------|---|--------------|---|----|---|----|---|----|----------------|-------------|----------------|------------------------------|----------------------------|--|---|---|
|                  |              |               |   | Su           | M | Tu | W | Th | F | Sa |                |             |                |                              |                            |  |   |   |
|                  |              |               | S |              |   |    |   |    |   |    |                |             |                |                              |                            |  |   |   |
|                  |              |               | O |              |   |    |   |    |   |    |                |             |                |                              |                            |  |   |   |
|                  |              |               | S |              |   |    |   |    |   |    |                |             |                |                              |                            |  |   |   |
|                  |              |               | O |              |   |    |   |    |   |    |                |             |                |                              |                            |  |   |   |
|                  |              |               | S |              |   |    |   |    |   |    |                |             |                |                              |                            |  |   |   |
|                  |              |               | O |              |   |    |   |    |   |    |                |             |                |                              |                            |  |   |   |
|                  |              |               | S |              |   |    |   |    |   |    |                |             |                |                              |                            |  |   |   |
|                  |              |               | O |              |   |    |   |    |   |    |                |             |                |                              |                            |  |   |   |
|                  |              |               | S |              |   |    |   |    |   |    |                |             |                |                              |                            |  |   |   |
|                  |              |               | O |              |   |    |   |    |   |    |                |             |                |                              |                            |  |   |   |
|                  |              |               | S |              |   |    |   |    |   |    |                |             |                |                              |                            |  |   |   |
|                  |              |               | O |              |   |    |   |    |   |    |                |             |                |                              |                            |  |   |   |

### ATTESTATION

I, \_\_\_\_\_ (NAME), as \_\_\_\_\_ (TITLE), of \_\_\_\_\_ (COMPANY), hereby certify, under penalty of perjury, that I am legally authorized to make this representation on behalf of the above-named entity, and that the payroll data above is complete, true, and correct, that the wage rates paid to employees by this contractor or subcontractor of a County contract are no less than those required by County law, that the rate of pay for each employee accurately reflects the work the employee performed and that this contractor or subcontractor is in full compliance with the Montgomery County Wage Requirements Law. I understand and agree that Quarterly Payroll Reports are required, and the contractor's or subcontractor's late submission or non-submission of this information may result in the County withholding contract payments, assessing liquidated damages, terminating the contract, or otherwise taking action to enforce the contract or the Wage Requirements Law statute.

## NOTES:

- For **“Race”** use one of the following categories for each employee (collected for statistical reporting purposes only):

|   |   |
|---|---|
| 1 - Hispanic or Latino  | 2 - White, not Hispanic or Latino                             |
| 3 - Black or African-American, not Hispanic or Latino                 | 4 - Asian, not Hispanic or Latino                             |
| 5 - Native Hawaiian or Other Pacific Islander, not Hispanic or Latino | 6 - American Indian or Alaskan Native, not Hispanic or Latino |
| 7 - Two or More Races, not Hispanic or Latino                         |   |
- For **“Gender”** use one of the following categories for each employee (collected for statistical reporting purposes only):

|            |          |
|------------|----------|
| 1 – Female | 2 - Male |
|------------|----------|
- “Health Insurance Premium”** do not supplement or offset the wage rate (collected for statistical reporting purposes only)